



# IOWA ADMINISTRATIVE BULLETIN

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## PREFACE

The Iowa Administrative Bulletin is published biweekly pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)"a"]; and agricultural credit corporation maximum loan rates [535.12].

**PLEASE NOTE:** Underscore indicates new material added to existing rules; ~~strike through~~ indicates deleted material.

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### CITATION of Administrative Rules

The Iowa Administrative Code shall be cited as (agency identification number) IAC (chapter, rule, subrule, lettered paragraph, or numbered subparagraph).

441 IAC 79	(Chapter)
441 IAC 79.1	(Rule)
441 IAC 79.1(1)	(Subrule)
441 IAC 79.1(1)"a"	(Paragraph)
441 IAC 79.1(1)"a"(1)	(Subparagraph)

The Iowa Administrative Bulletin shall be cited as IAB (volume), (number), (publication date), (page number), (ARC number).

IAB Vol. XII, No. 23 (5/16/90) p. 2050, ARC 872A

NOTE: In accordance with Iowa Code section 2B.5A, a rule number within the Iowa Administrative Code includes a reference to the statute which the rule is intended to implement: 441—79.1(249A).

## Schedule for Rule Making 2011

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
<b>*Dec. 22 '10*</b>	Jan. 12 '11	Feb. 1 '11	Feb. 16 '11	Feb. 18 '11	Mar. 9 '11	Apr. 13 '11	July 11 '11
Jan. 7	Jan. 26	Feb. 15	Mar. 2	Mar. 4	Mar. 23	Apr. 27	July 25
Jan. 21	Feb. 9	Mar. 1	Mar. 16	Mar. 18	Apr. 6	May 11	Aug. 8
Feb. 4	Feb. 23	Mar. 15	Mar. 30	Apr. 1	Apr. 20	May 25	Aug. 22
Feb. 18	Mar. 9	Mar. 29	Apr. 13	Apr. 15	May 4	June 8	Sep. 5
Mar. 4	Mar. 23	Apr. 12	Apr. 27	Apr. 29	May 18	June 22	Sep. 19
Mar. 18	Apr. 6	Apr. 26	May 11	May 13	June 1	July 6	Oct. 3
Apr. 1	Apr. 20	May 10	May 25	<b>***May 25***</b>	June 15	July 20	Oct. 17
Apr. 15	May 4	May 24	June 8	June 10	June 29	Aug. 3	Oct. 31
Apr. 29	May 18	June 7	June 22	<b>***June 22***</b>	July 13	Aug. 17	Nov. 14
May 13	June 1	June 21	July 6	July 8	July 27	Aug. 31	Nov. 28
<b>***May 25***</b>	June 15	July 5	July 20	July 22	Aug. 10	Sep. 14	Dec. 12
June 10	June 29	July 19	Aug. 3	Aug. 5	Aug. 24	Sep. 28	Dec. 26
<b>***June 22***</b>	July 13	Aug. 2	Aug. 17	Aug. 19	Sep. 7	Oct. 12	Jan. 9 '12
July 8	July 27	Aug. 16	Aug. 31	<b>***Aug. 31***</b>	Sep. 21	Oct. 26	Jan. 23 '12
July 22	Aug. 10	Aug. 30	Sep. 14	Sep. 16	Oct. 5	Nov. 9	Feb. 6 '12
Aug. 5	Aug. 24	Sep. 13	Sep. 28	Sep. 30	Oct. 19	Nov. 23	Feb. 20 '12
Aug. 19	Sep. 7	Sep. 27	Oct. 12	Oct. 14	Nov. 2	Dec. 7	Mar. 5 '12
<b>***Aug. 31***</b>	Sep. 21	Oct. 11	Oct. 26	<b>***Oct. 26***</b>	Nov. 16	Dec. 21	Mar. 19 '12
Sep. 16	Oct. 5	Oct. 25	Nov. 9	<b>***Nov. 9***</b>	Nov. 30	Jan. 4 '12	Apr. 2 '12
Sep. 30	Oct. 19	Nov. 8	Nov. 23	<b>***Nov. 23***</b>	Dec. 14	Jan. 18 '12	Apr. 16 '12
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<b>***Oct. 26***</b>	Nov. 16	Dec. 6	Dec. 21	<b>***Dec. 21***</b>	Jan. 11 '12	Feb. 15 '12	May 14 '12
<b>***Nov. 9***</b>	Nov. 30	Dec. 20	Jan. 4 '12	Jan. 6 '12	Jan. 25 '12	Feb. 29 '12	May 28 '12
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<b>***Dec. 7***</b>	Dec. 28	Jan. 17 '12	Feb. 1 '12	Feb. 3 '12	Feb. 22 '12	Mar. 28 '12	June 25 '12
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### PRINTING SCHEDULE FOR IAB

<u>ISSUE NUMBER</u>	<u>SUBMISSION DEADLINE</u>	<u>ISSUE DATE</u>
11	Wednesday, November 9, 2011	November 30, 2011
12	Wednesday, November 23, 2011	December 14, 2011
13	Wednesday, December 7, 2011	December 28, 2011

**PLEASE NOTE:**

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

**\*\*\*Note change of filing deadline\*\*\***

**INSURANCE DIVISION[191]**

Synthetic guaranteed investment  
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IAB 10/19/11 **ARC 9815B**

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330 Maple St.  
Des Moines, Iowa

November 8, 2011  
10 a.m.

**IOWA FINANCE AUTHORITY[265]**

Low-income housing tax credit  
program—2012 qualified  
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IAB 11/2/11 **ARC 9837B**

Authority Offices  
2015 Grand Ave.  
Des Moines, Iowa

November 22, 2011  
9 to 11 a.m.

**MEDICINE BOARD[653]**

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IAB 10/19/11 **ARC 9807B**

Board Office, Suite C  
400 SW 8th St.  
Des Moines, Iowa

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**PROFESSIONAL LICENSURE DIVISION[645]**

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Fifth Floor Board Conference Room  
Lucas State Office Bldg.  
Des Moines, Iowa

November 2, 2011  
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Psychologists—discipline,  
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Fifth Floor Board Conference Room  
Lucas State Office Bldg.  
Des Moines, Iowa

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IAB 10/19/11 **ARC 9808B**

Suite B  
717 E. Court Ave.  
Des Moines, Iowa

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9 a.m.

**SCHOOL BUDGET REVIEW COMMITTEE[289]**

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amendments to ch 6  
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State Board Room, Second Floor  
Grimes State Office Bldg.  
Des Moines, Iowa

November 22, 2011  
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Conference Room 424, Fourth Floor  
Lucas State Office Bldg.  
Des Moines, Iowa

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9 a.m.

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Unclaimed property,  
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IAB 10/19/11 **ARC 9813B**

Lucas Conference Room  
Treasurer of State's Office  
Lucas State Office Bldg.  
Des Moines, Iowa

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2 p.m.

The following list will be updated as changes occur.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies are included alphabetically in SMALL CAPITALS at the left-hand margin.

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## ARC 9836B

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

## Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 163.1, 166D.1, and 166D.13(4), the Department of Agriculture and Land Stewardship hereby gives Notice of Intended Action to amend Chapter 64, “Infectious and Contagious Diseases,” Iowa Administrative Code.

The proposed amendments update the rules by eliminating the pseudorabies testing and isolation requirements for swine returning home or to a purchaser’s herd from a fair, exhibition or sale. Swine exhibition sponsors would be required to preregister and send a postevent report to the Department.

Any interested person may make written suggestions or comments on the proposed amendments on or before November 22, 2011. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or by E-mail to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

The proposed amendments are subject to the Department’s general waiver provision.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement 2011 Iowa Acts, House File 557, which becomes effective on January 1, 2012.

The following amendments are proposed.

ITEM 1. Amend rule 21—64.34(163), catchwords, as follows:

**21—64.34(163) Health requirements for exhibition of livestock, poultry and birds at the state fair, and district shows and exhibitions.**

ITEM 2. Rescind subparagraph 64.34(4)“b”(3).

ITEM 3. Amend rule 21—64.35(163), introductory paragraph, as follows:

**21—64.35(163) Health requirements for exhibition of livestock, poultry and birds at county exhibitions.** Each county fair shall have an official veterinarian who will inspect all livestock, poultry and birds when they are unloaded or shortly thereafter. No Certificate of Veterinary Inspection will be required on livestock, poultry and birds exhibited at a county 4-H or FFA show. Quarantined animals or animals from quarantined herds cannot be exhibited. Evidence of warts, ringworm, footrot, pinkeye, draining abscesses or any other contagious or infectious condition will eliminate the animal from the show.

ITEM 4. Amend subrules 64.35(1) and 64.35(2) as follows:

**64.35(1) Swine exhibition requirements.** ~~Swine exhibitors shall present to the veterinarian the following: a signed affidavit stating that the swine did not originate from a quarantined herd and that, to the best of the exhibitor’s knowledge, swine dysentery has not been in evidence in the exhibitor’s herd for the past 12 months; and, for swine originating from a Stage IV or lower status county, a record of a negative pseudorabies test performed within 30 days before the exhibition, subject to 64.35(2). No pseudorabies testing is required for swine that originate from a Stage V county. “Swine exhibition” means an exhibit, demonstration, show, or competition involving an event on the state fairgrounds, a county fair, or other exhibition event. The sponsor of the exhibition must retain an Iowa licensed veterinarian to supervise the health of the swine at the exhibition location. The sponsor must electronically file the approved registration form and obtain approval from the state veterinarian at least~~



## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

30 days before the event. The registration form includes the name of the exhibition and the address and telephone number of its location; the name, address and telephone number of the veterinarian; and the date of the planned exhibition. Sales of swine will not be allowed unless the event has been registered and received approval from the state veterinarian 30 days prior to the event.

**64.35(2) *Exceptions Swine exhibition report required.*** ~~No testing for pseudorabies shall be required at an exhibition that involves only market classes of swine, provided the animals are consigned directly to a slaughter establishment from the exhibition. The site from which the exhibited swine originate must have a current pseudorabies monitored status, or the exhibited swine must originate from a Stage IV or higher status county. Swine leaving the exhibition from a market class must be consigned and move directly to a slaughtering establishment. All market swine from Stage II counties must be vaccinated against pseudorabies. The sponsor of the swine exhibition shall electronically submit to the department the approved report form within five business days after the conclusion of the exhibition. The form includes the name of the exhibition and the address and telephone number of its location; the name, address and telephone number of the veterinarian; the date that the exhibition occurred; the name, address and telephone number of the owner of the swine; and the address and telephone number of the premises from which the swine was moved after the exhibition if such premises is a different premises.~~

**ARC 9835B****HUMAN SERVICES DEPARTMENT[441]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services proposes to amend Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

This amendment removes the remaining exclusions from Medicaid coverage for drugs to promote cessation of smoking. Public Law 111-148, the Patient Protection and Affordable Care Act, mandates coverage of smoking cessation products for pregnant women by October 1, 2010, and for all Medicaid members by January 1, 2014. State Medicaid Director Letter 11-007, published June 24, 2011, clarified that all smoking cessation products (legend and over-the-counter) must be covered. Currently, Iowa does not cover legend nicotine nasal spray and oral inhaler products. Because of the limited cost expected, the Department has decided to expand coverage for all members at this time for ease of administration.

This amendment was also Adopted and Filed Emergency and is published herein as **ARC 9834B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendment on or before November 22, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

This amendment does not provide for waivers in specified situations since it expands Medicaid coverage.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4 and Sections 4107 and 2502 of Public Law 111-148.

**ARC 9837B****IOWA FINANCE AUTHORITY[265]****Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b” and 16.5(1)“r,” the Iowa Finance Authority proposes to amend Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

These amendments replace the current qualified allocation plan for the Low-Income Housing Tax Credit Program with the 2012 qualified allocation plan, which is incorporated by reference in rule 265—12.1(16).

The qualified allocation plan sets forth the purpose of the plan, the administrative information required for participation in the program, the threshold criteria, the selection criteria, the postreservation requirements, the appeal process, and the compliance monitoring component. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plan are available upon request from the Authority and are available electronically on the Authority’s Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov). It is the Authority’s intent to incorporate the 2012 qualified allocation plan by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

The Authority does not intend to grant waivers under the provisions of any of these rules, other than as may be allowed under the Authority’s general rules concerning waivers. The qualified allocation plan is subject to state and federal requirements that cannot be waived. (See Internal Revenue Code Section 42 and Iowa Code section 16.52.)

The Authority will receive written comments on the proposed amendments and on the qualified allocation plan until 4:30 p.m. on November 22, 2011. Comments may be addressed to Dave Vaske, Low-Income Housing Tax Credit Manager, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Dave Vaske at (515)725-4941 or E-mailed to [QAPPublicComment@iowa.gov](mailto:QAPPublicComment@iowa.gov).

The Authority will hold a public hearing on November 22, 2011, to receive public comments on these amendments and on the proposed 2012 qualified allocation plan. The public hearing will be held from 9 to 11 a.m. at the Authority’s offices, located at 2015 Grand Avenue, Des Moines, Iowa.

The Authority anticipates that it may make changes to the 2012 qualified allocation plan based on comments received from the public.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 16.5(1)“r,” 16.52, 17A.12, and 17A.16 and Internal Revenue Code Section 42.

The following amendments are proposed.

ITEM 1. Amend rule 265—12.1(16) as follows:

**265—12.1(16) Qualified allocation plan.** The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2011~~ 2012 Qualified Allocation Plan shall be the qualified allocation plan for the allocation of ~~2011~~ 2012 low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.52. The qualified allocation plan includes the plan, application, and the application instructions. The qualified allocation plan is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and

IOWA FINANCE AUTHORITY[265](cont'd)

17.12(2). The qualified allocation plan does not include any amendments or editions created subsequent to ~~November 24, 2010~~ October 12, 2011.

ITEM 2. Amend rule 265—12.2(16) as follows:

**265—12.2(16) Location of copies of the plan.** The qualified allocation plan can be reviewed and copied in its entirety on the authority's Web site at <http://www.iowafinanceauthority.gov>. Copies of the qualified allocation plan, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's Web site. The plan incorporates by reference IRC Section 42 and the regulations in effect as of ~~November 24, 2010~~ October 12, 2011. Additionally, the plan incorporates by reference Iowa Code section 16.52. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's Web site.

**ARC 9823B**

## **REGENTS BOARD[681]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 262.9(3), the Board of Regents hereby gives Notice of Intended Action to amend Chapter 5, “State Hygienic Laboratory,” to rescind Chapter 12, “University of Iowa Organization and General Rules,” and to adopt new Chapter 12 with the same title, and to amend Chapter 14, “University of Northern Iowa Organization and General Rules,” and Chapter 16, “Iowa School for the Deaf Organization and General Rules,” Iowa Administrative Code.

The amendments in Items 1, 2 and 3 update Chapter 5 pertaining to the State Hygienic Laboratory. The amendments clarify the mission of the laboratory, who may submit specimens for analysis, and the process for waiving or deferring fees. The amendment in Item 4 rescinds Chapter 12 in its entirety and adopts a new chapter containing updated rules for the University of Iowa. Existing Chapter 12 has become outdated and does not reflect the current administrative organization of the University. New Chapter 12 also updates references to the University's Operations Manual and provides links to current practices and procedures. Items 5 and 6 update Chapter 14 pertaining to the University of Northern Iowa to reflect the current mission and administrative structure of UNI. Items 7 to 10 update Chapter 16 to reflect the mission and the current administrative structure and processes of the Iowa School for the Deaf.

Any interested person may make written comments on these amendments on or before November 22, 2011, addressed to Marcia Brunson, Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905; fax (515)281-6421; or E-mail [mbruns@iastate.edu](mailto:mbruns@iastate.edu).

A waiver provision is not included. The Board has adopted a uniform waiver rule, which may be found at 681—19.18(17A).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 262, 263, 268 and 270.

The following amendments are proposed.

ITEM 1. Amend rule 681—5.1(263) as follows:

### **681—5.1(263) Scope of services.**

**5.1(1) Scientific.** The laboratory provides analytical and reference services primarily in the areas of communicable disease control and in the assessment of environmental quality, surveillance information, disaster and terrorism response, population data, microbiological and chemical examinations and other

## REGENTS BOARD[681](cont'd)

investigations in the areas of disease, newborn and maternal screening, fieldwork and the assessment of environmental quality.

5.1(2) Consultative. The professional staff of the laboratory ~~is available for consultative assistance to persons with interest or involvement in public health~~ provide regulatory review, consultative assistance, and data interpretation and evaluation of environmental effects and scientific needs to persons, agencies, and organizations with interest or involvement in public and environmental health.

5.1(3) Training Education and training. Facilities and staff of the laboratory are available for the training of laboratorians, environmentalists, and public health specialists as the need arises through workshops, seminars, and individualized instruction. ~~As part of the laboratory's academic mission, staff of the laboratory provide education and training for professional colleagues, educators, students, citizens, policymakers and anyone interested in public and environmental health through appropriate educational methods including, but not limited to, workshops, seminars, and individualized instruction.~~

5.1(4) Applied research. The laboratory conducts scientific and management research designed to solve practical problems and to translate basic research to improve public and environmental health.

ITEM 2. Amend subrule 5.2(2) as follows:

5.2(2) Who may submit specimens.

- a. to d. No change.
- e. Other state agencies, institutions, and municipalities may submit specimens, generally under a contractual arrangement if the submission is to be of a regular ~~and~~ or routine nature.
- f. No change.
- g. Private individuals may submit specimens to ~~determine the suitability and safety of private water supplies only when collected and received according to conditions prescribed by the laboratory and accompanied by the appropriate fee~~ address infectious disease or environmental concerns.
- h. Privately owned industries and businesses may submit specimens for environmental studies by prior arrangement with the laboratory on a fee-based contractual basis.
- i. No change.
- j. Any agency, organization, business or individual impacted by a natural disaster may submit specimens that require biological or environmental testing to assure health and safety.
- k. First responders, hazmat teams, the Radiological Emergency Response Team, the 71st Civil Support Team, the FBI, the United States Postal Service and any other officially recognized law enforcement or terrorism response agency may submit samples for identification and confirmation of potential weapons of mass destruction (WMD) according to the Iowa Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Response Protocol.

ITEM 3. Amend rule 681—5.3(263) as follows:

**681—5.3(263) Charges.**

5.3(1) Specimens ~~examined free of charge~~ for which the fee may be waived or deferred:

- a. No change.
- b. Specimens submitted under statutory authority by state agencies or designees of state agencies which are involved in investigations or episodes challenging the health of the public or the quality of the environment. Expenses caused by emergency testing may be eligible for subsequent reimbursement.
- c. Any specimen when there is probable cause that a direct threat to public health exists. Such tests may qualify for subsequent reimbursement.
- d. Specimens submitted related to the confirmation or identification of potential weapons of mass destruction (WMD) according to the Iowa Chemical, Biological, Radiological, Nuclear, and Explosive (CBRNE) Response Protocol.

5.3(2) Specimens for which fees are charged:

- a. to c. No change.

## REGENTS BOARD[681](cont'd)

*d.* Specimens not covered by statute, by rules of the state department of health, by rules of the natural resources department or in this subrule, may be examined and charged for at rates to be determined by the ~~state board of regents~~ laboratory subject to any limitations imposed by law.

~~This rule is~~ These rules are intended to implement Iowa Code chapter 263.

ITEM 4. Rescind 681—Chapter 12 and adopt the following new chapter in lieu thereof:

CHAPTER 12  
UNIVERSITY OF IOWA ORGANIZATION AND GENERAL RULES

**681—12.1(262) Statement of university mission.** The University of Iowa is a comprehensive public university with the mission to provide the highest quality undergraduate, professional, graduate, and continuing education and patient care. To fulfill this mission, the university engages in teaching; research; professional, public, and clinical services; and appropriate extension.

**681—12.2(262) Officers.** The university has three statutory officers: president, secretary, and treasurer. The president is the chief administrative officer of the university and has such authority and duties as have been delegated by the board of regents.

**681—12.3(262) Organization/administration.**

**12.3(1)** The academic mission of the university, to provide undergraduate, graduate, professional and continuing education, is carried out principally by the faculty and staff of the University of Iowa's eleven colleges: business, dentistry, education, graduate college, law, liberal arts and sciences, medicine, nursing, pharmacy, public health, and university college. The dean of each college is its chief administrative officer. The university's patient care mission is carried out principally by University of Iowa Health Care, the university's academic medical center.

**12.3(2)** A detailed listing of the university's administrative units is shown on the organizational chart at the following Web site: <http://www.uiowa.edu/~our/opmanual/app/a01ui.pdf>.

**12.3(3)** Additional information regarding the university's administration can be found at the following Web site: <http://www.uiowa.edu/homepage/fac-staff/administration.html>.

**681—12.4(262) University operations manual.** The university's operations manual contains policies and procedures governing the internal operations of the university. It is available for review at the following Web site: <http://www.uiowa.edu/~our/opmanual/>. The operations manual is printed annually, and a copy is available for public review at the university's main library.

**681—12.5(262) Contracting authority.** Except for authority retained by the board of regents in 681—8.2(262) or in the Regents Policy Manual, the board of regents has delegated to the president authority to make contracts and agreements as specified in 681—Chapter 8. Pursuant to and in accordance with that delegation, the president has further delegated contracting authority as outlined in the university's operations manual, part V, chapter 6. This delegated contracting authority is available for review at the following Web site: <http://www.uiowa.edu/~our/opmanual/v/06.htm>.

**681—12.6(262) No-smoking policy.** In accordance with the Iowa smokefree air Act (Iowa Code chapter 142D), the University of Iowa has adopted a smoke-free campus policy, which is incorporated by reference herein. The policy, together with campus boundary maps, is available at the following Web site: <http://www.uiowa.edu/~our/opmanual/v/35.htm#355>.

**681—12.7(262) Alcoholic beverage policy.** Alcoholic beverages may be consumed, served and sold in those areas of the University of Iowa as may be designated by the university but only in compliance with all existing university policies which are incorporated by reference herein, including, but without limitation, the alcoholic beverage service guidelines and procedures at the following Web

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site: <http://www.uiowa.edu/~our/opmanual/v/26.htm> and the guidebook for university housing at the following Web site: <http://housing.uiowa.edu/res-hall-guidebook/>.

**681—12.8(262) Communication, marketing, and public relations.** Inquiries, submissions, and requests should be addressed to the Office of the Vice President for Strategic Communication, The University of Iowa, 300 Plaza Centre One, Iowa City, Iowa 52242, or to the Board of Regents, State of Iowa, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905. Generally, inquiries, submissions, and requests from the public (other than applications for admission or employment) should be submitted either in writing or by E-mail.

**681—12.9(262) Merit system employee grievances.** For purposes of the grievance procedure set forth in 681—12.10(262) and 681—12.11(262), “employee” means a merit system employee who has completed the six-month probationary period and is presently employed or who has been dismissed within the previous one-year period.

Disputes or complaints by permanent employees regarding the interpretation or application of institutional rules governing terms of employment or working conditions (other than general wage levels) or the provisions of the merit system rules, other than disputes whose resolution is provided for in 681—3.127(19A) and 681—3.128(19A), will be resolved in accordance with this procedure, which has been approved by the merit system director in accordance with 681—subrule 3.129(1). Employees in an initial probationary period will be allowed access to the grievance procedure with the right to appeal orally at Step 1 and in writing at Steps 2 and 3. The university may permit an oral presentation at Steps 2 and 3 if deemed necessary.

**681—12.10(262) Grievance procedure.**

**12.10(1)** An employee who has a grievance and wishes to use the grievance procedure must initiate Step 1 within 21 calendar days from the date of the discovery of the grievance. No grievance may be filed later than one year from the occurrence of the event which gave rise to the grievance.

**12.10(2)** An aggrieved employee has the right to be accompanied by no more than two representatives throughout the grievance procedure. The names of such representatives will be noted on written grievances and each subsequent request for review.

**12.10(3)** An aggrieved employee is allowed reasonable time off from regular university duties without loss of pay to investigate and process a grievance. The immediate supervisor of the employee shall make suitable arrangements.

**12.10(4)** The aggrieved employee may also request released time from work without loss of pay for such representative or representatives to investigate a grievance at any time following the oral presentation in Step 1 of the grievance procedure, except that the aggrieved employee and representative are allowed up to one hour off from regular university duties without loss of pay to confer before any grievance hearing held under the grievance procedure.

*a.* Any request for time off for a grievant’s representative is made in writing to the representative’s supervisor, with an informational copy sent to the director of personnel, and should contain an indication of the reason released time is necessary. The representative’s supervisor shall provide a reasonable bona fide amount of released time for the investigation, such time being scheduled as soon as reasonably possible and preferably within the same work day, consistent with the normal functioning of the employee’s department.

*b.* It is a violation of institutional policy to restrain, interfere with, coerce, or discriminate against an employee acting as a grievant’s representative in accordance with this procedure.

*c.* An employee acting as a grievant’s representative shall not use time provided for grievance investigation for other matters and shall conduct the investigation with dispatch.

**12.10(5) Steps in the grievance procedure.**

*a.* The grievance procedure consists of the following four steps:

(1) Step 1. An aggrieved employee states in writing that a grievance is being presented and then presents the grievance orally, providing to the employee’s immediate supervisor the pertinent

## REGENTS BOARD[681](cont'd)

circumstances of the complaint or dispute and the actions requested. The supervisor responds in writing to the grievance within seven calendar days. In the response, the supervisor states the supervisor's understanding of the grievance, the response to the grievance, and justification for the response. If a satisfactory settlement is not reached, the employee has seven calendar days to request Step 2.

(2) Step 2. If the employee requests Step 2, a written grievance is forwarded by the aggrieved employee to the administrative head of the unit or department within seven calendar days. The administrative head of the unit or department or designee has ten calendar days to reply in writing. If satisfactory settlement is not reached, the employee has seven calendar days to request Step 3.

(3) Step 3. If the employee decides to request Step 3, the written grievance is forwarded by the aggrieved employee to the head of the major functional or administrative unit of the university with a copy sent to the office of vice president for human resources. A meeting shall be held within ten calendar days after the grievance has been submitted to the head of the major functional or administrative unit. The university may be represented by the office of vice president for human resources, the head of the major functional or administrative unit or designee, and the administrative personnel involved in Steps 1 and 2. The aggrieved employee has the right to be accompanied by representatives. The head of the major functional or administrative unit shall respond in writing within seven calendar days. If a satisfactory settlement is not reached, the employee has seven calendar days to proceed to Step 4.

(4) Step 4. If the employee is not satisfied with the decision rendered under Step 3, a hearing before an arbitrator may be requested within seven calendar days following receipt of the Step 3 decision.

1. Such a request shall be in writing and include all of the information included in the initial grievance and subsequent appeals, all of the decision related thereto, and any other pertinent information the employee wishes to submit.

2. The appeal shall be signed and dated by the employee and shall be directed to the Merit System Director, State Board of Regents, 11260 Aurora Avenue, Urbandale, Iowa 50322-7905, who will arrange for a hearing before an arbitrator. The arbitrator will be expected to render a decision within 30 calendar days following the conclusion of the hearing.

b. A written grievance shall contain a brief description of the complaint or dispute and the pertinent circumstances and dates of occurrence. It shall specify the university or merit system rule which has allegedly been violated and shall state the corrective action desired by the employee.

c. Presentations, reviews, investigations and hearings held under this procedure may be conducted during working hours, and employees who participate in such meetings shall not suffer loss of pay as a result thereof.

d. If an employee does not appeal a decision rendered at any step of this procedure within the time prescribed by this rule, the decision shall become final. If a university representative does not reply to an employee's grievance or appeal within the prescribed time, the employee may proceed to the next step. With the consent of both parties, any of the time limits prescribed by this rule may be extended.

**681—12.11(262) Appeals.** The board of regents shall approve the use of a single arbitrator in hearing an appeal.

**12.11(1)** The selection of the arbitrator shall be made from a panel of arbitrators as referred from the Federal Mediation and Conciliation Service.

**12.11(2)** The arbitrator shall hear a dispute appealed to the last step of the grievance procedure and render a decision thereon subject only to review by the courts.

**12.11(3)** The arbitrator establishes procedures for the conduct of the hearing in a fair and informal manner that affords each party reasonable and ample opportunity for case presentation and to rebut the presentation of the other.

**12.11(4)** The arbitrator will be expected to render a decision to the involved parties and to the board of regents within the prescribed time.

These rules are intended to implement Iowa Code chapter 262.

## REGENTS BOARD[681](cont'd)

ITEM 5. Amend rule 681—14.1(262) as follows:

**681—14.1(262) Organization.**

**14.1(1) *Statement of university mission.*** The University of Northern Iowa at Cedar Falls is recognized as having a mission of sufficient scope to enable it to be a distinguished arts and sciences university with an outstanding teacher professional programs in education program and business. It provides leadership in the development of programs for the preservice and in-service preparation of teachers and other educational personnel for schools, colleges, and universities. The institution offers undergraduate and graduate programs and degrees in the liberal and practical arts and sciences, including selected areas of technology. It offers preprofessional programs and conducts research and extension community outreach programs to strengthen the educational, social, cultural, and economic development of Iowa and the larger community. ~~Evolution from a state college to a university entailed a broadening of offerings, development of more specialized undergraduate and graduate programs, and greater emphasis on research and public professional services.~~

It is imperative that the quality of the university's instruction be maintained and enhanced through increasingly strong emphasis on: (1) general or liberal arts education as the most essential ingredient for the undergraduate student; (2) the central importance and complementary relationship of teaching and research; (3) enrichment of instruction through extensive clinical, laboratory and field experiences; and through experiential learning, community engagement, and independent study; and (4) development of the life of the university community itself as an effective educational force. In order to serve students of all ages and to be responsive to their needs and preferences and to the needs of society, it is imperative that the university offer a variety of programs in such areas as liberal arts, education, business, social work, and technology. It will offer no major programs in agriculture, architecture, dentistry, engineering, forestry, hospital administration, law, pharmacy, medicine, or veterinary medicine.

In the area of teacher preparation, the university must remain at the forefront of developments in the field of education and be prepared to offer instruction in new areas required by society. Furthermore, UNI should be more than merely responsive to changing needs and interests of its students and society. It must provide leadership in educational innovations, programs, and research.

Future programs will be determined by the continuing study of existing programs and of developing needs. Programs will be curtailed or eliminated when the assessment of need and resources indicates that resources could better be devoted to other programs. The university approaches the addition of new programs with considerable caution. Generally, new programs are fashioned out of existing programs in response to developing needs. However, if the university is to remain vital, it must consider at the appropriate time the development of some new programs that fall within its general mission and meet the new needs of students and of society.

**14.1(2) *Officers.*** The university has three statutory officers: president, secretary, and treasurer. The president is the chief administrative officer of the university and has such authority and duties as have been delegated by the board of regents.

The president has nominated and the board of regents has appointed three vice presidents. The executive vice president and provost is acting president in the president's absence and is the chief academic officer of the university, having general administrative responsibility; under the president, for the educational program of the university. The vice president for student ~~services~~ affairs is responsible for the administration of all student services. The vice president for ~~administrative~~ administration and financial services serves as the chief fiscal officer of the university.

A detailed listing of the university units is shown on the organizational chart contained in the policies and procedures ~~manual~~ of the university.

**14.1(3) *Operation.*** In order to fulfill the academic mission of the university, the following academic units have been established: ~~school~~ college of business administration, college of education, graduate college, college of humanities and fine arts, college of natural sciences, and college of social and behavioral sciences.

The dean of each college is its chief administrative officer ~~and the director of the school of business is the chief administrative officer of the school~~. Academic departments function within the organizational



## REGENTS BOARD[681](cont'd)

structure of colleges ~~and the school of business~~. The executive officer of a department is the head, who is the chief administrative officer of an academic department.

**14.1(4) Policies and procedures ~~manual~~.** The university policies and procedures ~~manual contains the policies and procedures governing~~ govern the internal academic and administrative operations of the university. ~~It is~~ The policies and procedures are available for public inspection ~~in~~ on the university library, the office of public information services, and in the office of the state board of regents Web site.

ITEM 6. Amend rule 681—14.2(262) as follows:

**681—14.2(262) General rules.**

**14.2(1)** Sales persons or agents for any product, proposition, or cause are prohibited from soliciting employees or students in any building or part of the university property, except with the permission of the vice president for administration and ~~finance~~ financial services in the case of employees; or the vice president for ~~educational and student services~~ affairs in the case of the students.

**14.2(2)** Permission is granted in limited cases by the vice president for administration and ~~finance~~ financial services for the solicitation of employees by charitable organizations under all of the following circumstances:

*a. to f.* No change.

~~This rule is~~ These rules are intended to implement Iowa Code sections 70A.14, 70A.15, and 262.9.

ITEM 7. Amend subrule **16.1(1)**, second unnumbered paragraph, as follows:

The educational programs of the Iowa School for the Deaf will be consistent with the philosophy, reflected in federal and state legislation, that ~~handicapped disabled~~ and ~~nonhandicapped nondisabled~~ children and youth be educated together to the greatest extent possible. Thus, ISD assumes responsibility for providing an education for those hearing-impaired children and youth, including those with additional ~~handicaps~~ disabilities, for whom the comprehensive educational programs of the school are most appropriate.

ITEM 8. Amend subrules 16.1(2) to 16.1(5) as follows:

**16.1(2) Officers.** The school has two statutory officers: the superintendent and the secretary-treasurer.

The superintendent is the chief administrative officer of the school and has such authority and duties as delegated by the board of regents.

The secretary-treasurer is responsible for nonfaculty personnel, investments, financial transactions, financial records, maintenance of facilities and related services as delegated by the superintendent. The secretary-treasurer is also designated as business manager.

The superintendent has nominated and the board of regents has appointed a director of ~~education and four principals~~ business operations, a director of student life, and a director of facilities.

~~The director of education is the chief administrative officer of the instructional departments. The principal of each department is the administrative officer of the department.~~

**16.1(3) Organization.** The academic mission of the school is principally carried out through its ~~four~~ elementary, middle school, and high school departments: ~~elementary, upper elementary, high school, and vocational.~~

**16.1(4) Communications.** Written and personal inquiry, submissions and requests should be addressed to the Office of the Superintendent, Iowa School for the Deaf, ~~1600 South Highway 275~~ 3501 Harry Langdon Blvd., Council Bluffs, Iowa 51503-7898, or the office of the Board of Regents, ~~Old Historical Building, Des Moines, Iowa 50319~~ 11260 Aurora Avenue, Urbandale, Iowa 50322-7905.

Generally, inquiries, submissions and requests by the public may be submitted by informal letter. However, application for some purposes is to be made on a specified form. A list of the forms, general description, and the address where they may be obtained are found at ~~681—~~16.6(262).

**16.1(5) School operations manual.** The school operations manual contains the policies governing the internal administrative operation of the school. ~~It is available for public inspection in the school's business office, superintendent's office, and in the office of the state board of regents.~~

REGENTS BOARD[681](cont'd)

ITEM 9. Amend rule 681—16.6(262) as follows:

**681—16.6(262) Forms.** The school uses the following forms in its relations with the public. They are available from the superintendent's office, Iowa School for the Deaf, 3501 Harry Langdon Blvd., Council Bluffs, Iowa 51503-7898.

Application for student admission

~~Gymnastics—waiver of liability for public participants~~

Facilities Request Form

Employment—application for employment

This rule is intended to implement Iowa Code section 262.7.

ITEM 10. Amend rule 681—16.8(262) as follows:

**681—16.8(262) Transportation.** Transportation from the institution to the residence of the parents or guardians and return to the institution for children enrolled in the Iowa School for the Deaf shall be reimbursed or provided as follows:

1. No change.

2. ~~Not more than 11 trips per year shall be provided by chartered bus for children who attend the school and live outside the Council Bluffs area.~~ Transportation for children who attend the school and live outside the Council Bluffs area shall be provided in accordance with special education law.

This rule is intended to implement Iowa Code section 262.7.

**ARC 9818B**

## **SCHOOL BUDGET REVIEW COMMITTEE[289]**

### **Notice of Intended Action**

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 257.30, the School Budget Review Committee hereby proposes to amend Chapter 6, “Duties and Operational Procedures,” Iowa Administrative Code.

The proposed amendments account for changes in statute, as well as in accounting terminology or procedures. Specifically, the law changed the procedures on cash reserve levy and what the School Budget Review Committee must consider before granting modified allowable growth.

A waiver provision is provided in 289—Chapter 8.

Interested individuals may make written comments on the proposed amendments on or before November 22, 2011, at 4:30 p.m. Comments on the proposed amendments should be directed to Su McCurdy, Administrative Consultant, Iowa Department of Education, Second Floor, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa 50319-0146; telephone (515)281-4738; E-mail [su.mccurdy@iowa.gov](mailto:su.mccurdy@iowa.gov); or fax (515)242-5988.

A public hearing will be held on November 22, 2011, from 1 to 2 p.m. in the State Board Room on the second floor of the Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their views either orally or in writing. Any person who desires to attend the public hearing and has special requirements, such as those related to hearing or mobility impairments, may advise the Department of Education of specific needs by calling (515)281-5295.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 257.30, 257.31, 273.2, 273.3, 282.30, 282.31, and 298.10.

The following amendments are proposed.

## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

ITEM 1. Amend **289—Chapter 6**, title, as follows:

**DUTIES AND OPERATIONAL PROCEDURES**

ITEM 2. Adopt the following **new** definitions in rule **289—6.1(257)**:

*“Area education agency” or “AEA”* means a regional service agency organized under Iowa Code chapter 273 that provides school improvement services for students, families, teachers, administrators, and the community.

*“Basis of accounting”* means the accrual or modified accrual accounting basis under generally accepted accounting principles (GAAP) as defined by the Governmental Accounting Standards Board (GASB).

*“Basis of budgeting”* means the accrual or modified accrual budgeting basis under GAAP as defined by GASB.

*“Class action”* means a situation that applies to multiple districts with the same or substantially similar needs and the SBRC has determined that the districts can be considered jointly in a single hearing.

*“Community college”* means a publicly supported school organized under Iowa Code chapter 260C.

*“Modified allowable growth”* means an amount expressed in dollars which is added to the district’s authorized budget.

*“School corporation”* means a school district, area education agency, or community college.

ITEM 3. Rescind the definitions of “Actual enrollment,” “Additional enrollment,” “Allowable growth,” “Basic enrollment for a budget year,” “Basic enrollment for the base year,” “Budget adjustment,” “Budget enrollment for the budget year,” “Combined district cost per pupil,” “Combined state cost per pupil,” “Property tax adjustment,” “Regular program district cost,” “Special needs adjustment,” “State percent of growth,” and “Weighted enrollment” in rule **289—6.1(257)**.

ITEM 4. Amend the following definitions in rule **289—6.1(257)**:

*“Authorized budget”* is means the total dollars available as the expenditure limit for a school district for a specific fiscal year. This total is the combined district cost plus miscellaneous income actually received during the fiscal year, plus the unspent balance of the previous year.

*“Certified budget”* is means the (document)-~~amount~~ which has been published and certified as provided for in Iowa Code chapter 24 and contains the amount proposed to be expended during the budget year. ~~If the authorized budget exceeds the certified budget, the certified budget must be amended to expend those excess funds.~~

*“Expenditures”* means the total amounts paid from the general ~~operating~~ fund of a school ~~district~~ corporation.

*“Miscellaneous income”* means the receipts deposited to the general ~~operating~~ fund of the school district but not including any of the following:

1. Foundation aid.
2. Revenue obtained from the foundation property tax as defined in Iowa Code section 257.3(1).
3. Cash reserve levy.
4. Revenue obtained from the additional property tax under Iowa Code section 257.4.

*“Unexpended ~~cash~~ fund balance”* is means the school district’s or AEA’s ~~cash position at any given time~~ fund balance in the general fund reported by the school district or AEA on the GAAP basis of accounting on its certified annual report. ~~(It does NOT have a direct relationship to the “unspent balance carried forward.”)~~

*“Unspent balance”* is means the amount of the authorized budget for the general fund less the amount not expended during the budget year on the GAAP basis of budgeting as reported by the school district on its certified annual report. ~~(These funds are also commonly termed “unspent balance carried forward,” or “carryover dollars.”)~~

## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

ITEM 5. Amend rule 289—6.3(257) as follows:

**289—6.3(257) Hearing procedures.**

**6.3(1) Request for ~~appearance~~ hearing.**

~~a. A school district~~ The board of a school corporation requesting ~~an appearance~~ a hearing before the SBRC is required, after taking official board action on the subject of the hearing, to submit ~~a written~~ an electronic request to the committee stating the reason for the ~~appearance~~ request for a hearing. ~~Confirmation of each request will be sent to the school district upon receipt of the request.~~

~~b. A request must be received by the committee at least one month~~ six weeks prior to the date of the scheduled hearing.

~~c. School districts~~ corporations with similar requests may appear and present their requests jointly at the discretion of the SBRC chairperson.

**6.3(2) Notification ~~to districts~~.**

~~a. School districts scheduled for hearings will be notified three weeks prior to the hearing. An electronic confirmation of each request shall be provided to the school corporation upon receipt of the request for hearing.~~

~~b. The SBRC may require board members or employees of any school corporation to appear. School corporations required to have a board member or employee appear shall be notified no later than three weeks prior to the hearing.~~

~~b. c. School districts corporations scheduled for hearings will shall be listed as to time and place, and notice will be sent to school officials involved not notified no later than two weeks one week prior to the hearing.~~

~~c. d. A school district corporation desiring to withdraw its request to appear before the SBRC should shall immediately inform the committee, local media, and the legislators within whose constituency the school corporation is located. A school corporation required to appear may not withdraw without the approval of the SBRC.~~

**6.3(3) Material for ~~agenda~~ the hearing.**

~~a. Any information requested by the committee must be provided by the school district within the timelines requested by the committee in order for the school district corporation to be included on the agenda schedule for a hearing. Ten One original and 11 copies of written material, and one full set of the materials provided electronically in editable rich text format (RTF) or spreadsheet format (i.e., not a PDF), shall be submitted at least two four weeks prior to the scheduled hearing. A summary not to exceed two pages of the school district's request must be submitted to the committee. The SBRC chairperson may set an earlier due date for information if necessary for adequate review based on the quantity or complexity of hearings. If a school corporation's exhibits for a hearing the school corporation has requested are not received timely, the school corporation's hearing shall be postponed to the next following regularly scheduled session. Where applicable, the committee will provide forms or checklists to school corporations to obtain uniform and comparable data for determining committee decisions.~~

~~b. School corporations shall include in their materials for the hearing a copy of publication of the board minutes that include the official action taken by the applicable school corporation board on the subject of the hearing and authorizing the school corporation's administrative officials to request modified allowable growth or use of the unexpended fund balance.~~

~~b. c. It shall be the responsibility of the administrative officials and board members to present information and materials in support of the school district's their school corporation's request to the committee in a timely manner. No additional materials or information shall be presented at the hearing that was not originally provided pursuant to paragraph 6.3(3)"a."~~

~~d. The SBRC may require staff of the department of education or department of management to appear or provide information for a hearing or for a study. The SBRC may require staff of any school corporation to provide information for a hearing related to another school corporation or for a study.~~

~~e. In order for the SBRC to have the information necessary to evaluate balances and budgets as required by the Iowa Code or to evaluate materials submitted by school districts or AEAs, all school districts and AEAs shall file financial and enrollment reports, including the certified annual report, in the~~

## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

manner, by the procedures, and by the dates prescribed by the department of education or department of management.

f. If the requirements in paragraph 6.3(3)“e” are not met, the SBRC may implement the procedures described in subrule 6.3(5).

g. Applications for any supplemental aid funding shall be filed by the due date established in the Iowa Code, an administrative rule, or otherwise by the department of education or department of management.

h. Applications for modified allowable growth for increased certified enrollment over the prior year’s enrollment, applications for modified allowable growth to pay tuition costs for open-enrolled-out students that were not enrolled in the district on the certified enrollment date in the prior year, and applications for modified allowable growth for excess costs of instructional programs for limited English proficient students must be received no later than December 1 of the budget year.

i. Applications for modified allowable growth for returning dropout and dropout prevention programs shall be filed by December 15 of the base year.

j. Requests to charge administrative costs to the special education program for the subsequent fiscal year must be received no later than February 1 of the base year.

k. Applications described in paragraphs 6.3(3)“g” and “i” that are not timely filed will not be considered for supplemental aid or for modified allowable growth. Applications described in paragraphs 6.3(3)“h” and “j” that are not timely filed may be considered at the discretion of the SBRC.

**6.3(4) *Permission to speak during the hearing.*** Any person wishing to appear before the committee, other than the board member or administrative employee representing the school corporation, shall submit a request in writing prior to the hearing date. Permission may be granted to a request made at the hearing upon a majority vote of the committee members present.

**6.3(5) *Failure to appear or to provide information.*** If any school corporation fails to appear as required by the committee or fails to provide any information requested by the SBRC, including the reports described in paragraph 6.3(3)“e,” the SBRC may direct the director of the department of management to withhold state foundation aid until the school corporation complies with the SBRC’s request. When the school corporation satisfactorily complies with the SBRC request, the withheld state foundation aid will be released and paid to the school corporation with the next regularly scheduled payment of foundation aid.

**6.3(5) 6.3(6) *Decisions by the committee.***

a. A decision shall be made no later than the end of the day of the hearing to either table, deny, modify or grant an adjustment where a school district has made a request the request of a school corporation shall be made no later than the end of the day of the hearing.

b. If the decision is made when the school district representatives are not present, the school district shall be informed of the decision by telephone the next working day following the hearing.

c. On all decisions, the The school district corporation shall receive written confirmation electronic notification when a summary of the final action taken by the committee is posted on the SBRC Web site.

d. The committee shall consider the intent of Iowa Code chapter 257 in making its decisions. The intent includes the following:

- (1) Equalizing educational opportunities,
- (2) Providing good education to all Iowa children,
- (3) Providing property tax relief,
- (4) Decreasing the percentage of school costs paid by property tax, and
- (5) Providing reasonable control of school costs.

d. The committee shall also consider in making its decisions the following:

- (1) The amount of unexpended fund balance available in all funds.
- (2) The amount of unspent balance in the general fund.
- (3) Local tax rates.
- (4) Documented local taxpayer support for the request.
- (5) Local effort to obtain alternative funding where available and applicable.

## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

- (6) Documented actual unduplicated costs of the program or project that is the subject of the request.
- (7) Sustainability of the program or need within the district or AEA budget.
- (8) Number and cost of previous requests for the same need and the number and cost of all previous requests.

- (9) Potential for duplicate funding of the same program or need.
- (10) Alternative procedures in the Iowa Code or administrative rules to provide funding for the same program or need.
- (11) Life safety issues documented through an independent, authoritative source.
- (12) Documented unusual or unique nature of the need.
- (13) Sustainability of the program or project without future requests.
- (14) Any other information the SBRC members consider pertinent to the consideration of the request.

~~6.3(6)~~ **6.3(7)** *Routine action by the committee.* School districts corporations do not need to be represented when action under consideration is for such items as cash reserve levies, ~~gifted and talented,~~ ~~drop-out~~ returning dropout/dropout prevention programs, special education ~~negative~~ balances or other situations which ~~could be~~ are considered “~~class action~~” decisions class actions as determined by the SBRC.

**6.3(8)** *Basic policies.* The SBRC has established the following basic policies that it shall consider in rendering its decisions.

- a. Modified allowable growth requests shall be considered only for the budget year, except where the Iowa Code expressly authorizes modified allowable growth to be granted for a subsequent year.
- b. Modified allowable growth requests shall be considered only for expenditures permitted from the general fund pursuant to Iowa Code.
- c. Modified allowable growth requests shall not be considered for any situation where the Iowa Code has established a different funding method.
- d. Modified allowable growth requests shall be considered only for unusual, unique or unforeseeable circumstances.
- e. Modified allowable growth requests shall be considered only in the budget year in which the expenditures shall occur and only to the extent of the actual, documented costs.
- f. Modified allowable growth requests shall be considered only if the school district has sufficient unrestricted, unexpended fund balance as of the end of the previous fiscal year to expend the full amount for the program or project that is the subject of the request to the SBRC.
- g. Modified allowable growth requests shall be considered only if the school district does not have sufficient unobligated unspent balance to expend the full amount for the program or project that is the subject of the request to the SBRC.

**6.3(9)** *Use of the unexpended fund balance.* If the SBRC approves use of the unexpended fund balance, the school district shall report to the committee as required by the committee an accounting of expenditures on the project until the project is completed. If any portion of the amount granted by the SBRC remains unexpended at the completion of the project, the school district shall notify the SBRC on or before the SBRC’s next regularly scheduled meeting. Any portion of the amount granted by the SBRC that remains unexpended at the completion of the project shall be returned to the unexpended fund balance in the general fund.

**6.3(10)** *Modified allowable growth to an AEA.* If the SBRC approves modified allowable growth for special education support services, approves an additional amount to be added to district costs for media services or educational services, or approves modified allowable growth for unusual circumstances, the amount shall be included in the budget of each district in the AEA for the subsequent budget year in the proportion that the appropriate enrollment of each district in the AEA bears to the total enrollment of all districts in the AEA.

ITEM 6. Amend rule 289—6.4(257) as follows:

**289—6.4(257) General duties Accounting and reporting.** In order for the SBRC to have data on which it may rely, the school district or AEA shall maintain its financial records and prepare financial reports, including the certified annual report, in the manner and by the procedures prescribed by the department

## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

of education or department of management in the Uniform Financial Accounting for Iowa LEAs and AEAs (UFA) manual and GAAP. School districts and AEAs shall use the chart of accounts defined in Uniform Financial Accounting for Iowa LEAs and AEAs (UFA).

~~6.4(1) Review of rules, regulations, directives and forms. The committee may recommend the revision of any rules, regulations, directives, or forms relating to school district budgeting and accounting, confer with local school boards or their representatives and make recommendations relating to any budgeting or accounting matters, and direct the director of the department of education or the director of the department of management to make studies and investigations of school costs in any school district.~~

~~6.4(2) Report to general assembly. The committee shall report to each session of the general assembly any recommended changes in laws relating to school districts and shall specify the number of hearings held annually, information about the amounts of property tax levied by school districts for a cash reserve, and other information the committee deems advisable.~~

ITEM 7. Amend subrule 6.5(1), introductory paragraph, as follows:

~~6.5(1) Generally accepted accounting principles. All school districts and AEAs shall budget on the generally accepted accounting principles (GAAP) GAAP basis of budgeting beginning with fiscal year 2006-2007 as defined by GASB. School districts and area education agencies shall use the chart of accounts defined in Uniform Financial Accounting for Iowa LEAs and AEAs (UFA). In order to effect this change in accounting/budgeting methods, the SBRC shall direct the departments of education and management to adjust calculations from the 2004-2005 certified annual report (CAR) related to the 2004-2005 unspent balances carried forward to the 2005-2006 unspent balances in order to hold districts harmless. If a district has revenues that it had not estimated and appropriated for expenditures on its certified budget, the district must amend its certified budget prior to expending those excess funds.~~

ITEM 8. Rescind paragraphs **6.5(1)“a” to “d.”**

ITEM 9. Rescind and reserve subrule **6.5(2).**

ITEM 10. Amend subrule 6.5(3) as follows:

**6.5(3) Negative unspent balances (exceeding authorized budgets).** Each school district shall calculate its unspent balance by October 1. If the school district has incurred a negative unspent balance, it shall notify the SBRC no later than October 15 and begin developing its corrective action plan to avoid future negative unspent balances.

*a.* A listing of the unspent balance as well as the unexpended cash fund balance of each school district for each fiscal year shall be reviewed by the committee. The unspent balance and the unexpended fund balance shall be presented on the GAAP basis.

*b.* No change.

*c.* The state board of education shall may be notified of the school districts with negative unspent balances each year. The notification shall include the amount by which the school district exceeded its authorized budget.

*d.* The board members president of districts each school district with a negative unspent balance balance shall be notified of the amount by which the school district exceeded its authorized budget. The school districts shall inform the SBRC at its the SBRC's next official hearing regularly scheduled session of the plans that are being implemented to avoid future negative unspent balances.

*e.* The SBRC may require the district to continue to report progress on the district's plans at regular intervals as determined by the committee until the committee is satisfied that the district's financial condition concerns have been resolved.

ITEM 11. Amend subrule 6.5(4) as follows:

**6.5(4) Cash reserve levy.**

*a.* No change.

*b.* If in the committee's judgment, the amount of a district's cash reserve levy is unreasonably high or is in excess of the amount necessary for operations, the committee shall instruct the district to use the unexpended fund balance in lieu of levying property taxes and shall direct the director of the department

## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

of management to reduce that school district's tax levy ~~computed under Iowa Code section 257.4 for the following budget year by the amount the cash reserve levy is deemed excessive.~~ to a level that is not excessive as determined by the SBRC and does not exceed the cash reserve limitation in paragraph 6.5(4) "c."

c. ~~Notwithstanding any other action approved by the committee,~~ The cash reserve levies for the budget year (reference lines 15.9/15.10 of the Aid & Levy Worksheet) shall not exceed 25 20 percent of the (SAR reference Item L, column 9, cell 602) operating general fund expenditures for the year previous to the base year minus the (SAR reference Item J, column 1, cell 293) operating general fund ~~unspent cash unexpended fund~~ balance for the year previous to the base year. The expenditures and the fund balances shall be determined on the GAAP basis. For purposes of this paragraph, "unexpended fund balance" shall mean the combined assigned and unassigned fund balances in the general fund.

d. No change.

e. The decision of the district board to implement additional taxes for cash reserve is subject to appeal pursuant to the provisions of Iowa Code section 24.27.

ITEM 12. Rescind subrule 6.5(5) and adopt the following **new** subrule in lieu thereof:

**6.5(5) Negative fund balances.** Each school district and each AEA shall report its fund balances for each fund on its certified annual report. If the district or AEA has incurred a negative (deficit) fund balance in any fund, it shall notify the SBRC no later than October 15 and begin developing its corrective action plan to avoid future negative fund balances.

a. A listing of the fund balances in each fund, unrestricted fund balances in each fund, as well as the unspent balance in each school district or AEA for each fiscal year shall be reviewed by the committee. The unspent balance, the fund balance, and the unrestricted fund balance shall be presented on the GAAP basis.

b. If the school district or AEA has a negative fund balance in the general fund in the base year, it shall not request modified allowable growth in the budget year.

c. The state board of education may be notified of the school districts or AEAs with negative fund balances each year. The notification shall include the amount the school district or AEA has incurred as a negative balance by fund.

d. The board president of each district or AEA with a negative fund balance shall be notified of the amount the school district or AEA incurred as a negative balance by fund. The school district or AEA shall inform the SBRC at the SBRC's next regularly scheduled session of the plans that are being implemented to avoid future negative fund balances.

e. The SBRC may require the school district or AEA to continue to report progress on the district's or AEA's plans at regular intervals as determined by the committee until the committee is satisfied that the district's or AEA's financial condition concerns have been resolved.

ITEM 13. Rescind and reserve rules **289—6.6(257)** and **289—6.7(257)**.

ITEM 14. Adopt the following **new** rule 289—6.9(257):

**289—6.9(257) Special education administrative costs.**

**6.9(1)** When a school district presents evidence of unusual circumstances that would justify charging administrative costs to the special education program, the committee may authorize such expenditures.

**6.9(2)** The committee shall use the following criteria in evaluating the evidence presented by the district:

a. The school district has a separate facility for special education which has a sufficient student population to warrant a certified special education administrator. In this case, the district, after it has received approval from the SBRC, may bill the prorated cost to other resident districts as well as include the prorated portion related to its own resident students in the special education program expenditures.

b. The school district has one or more private facilities located within the district with a sufficient special education student population that is served by the district. In this case, the district, after it has received approval from the SBRC, may include the lower of the prorated actual administrative costs or the prorated approved administrative costs in the billing to other resident districts in proportion to each



## SCHOOL BUDGET REVIEW COMMITTEE[289](cont'd)

district's resident students in the program, but shall not include the prorated portion related to its own resident students in the special education program expenditures.

ITEM 15. Adopt the following new rule 289—6.10(257):

**289—6.10(257) Area education agency budget review.** Pursuant to Iowa Code section 257.36, year-end special education support services committed and uncommitted fund balances exceeding 10 percent of the special education support services expenditures for that fiscal year shall be reverted and reduced to 10 percent. The AEA shall report the necessary information for this calculation on its certified annual report. The components of fund balances shall be determined in compliance with department of education guidance and GAAP. The AEA shall not move balances to other fund balance components or to other funds to avoid this reversion. The amount to be reverted shall be deducted from the state aid payments to the AEA during the budget year.

ITEM 16. Amend **289—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~section~~ sections 257.30, 257.31, 257.32, and 298.10 and chapter 260C.

**ARC 9817B**

## STATE PUBLIC DEFENDER[493]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 13B.4(8), the State Public Defender hereby gives Notice of Intended Action to amend Chapter 1, “Administration,” Chapter 4, “Public Records and Fair Information Practices,” Chapter 10, “Eligibility Guidelines for Court-Appointed Counsel,” and Chapter 12, “Claims for Indigent Defense Services,” Iowa Administrative Code.

These amendments update rules and terminology to reflect current practice, rescind unnecessary rules, and further explain state public defender practices regarding the denial of indigent defense fee claims by attorneys appointed contrary to Iowa Code section 815.10.

Any interested person may make written suggestions or comments on these proposed amendments on or before November 29, 2011. Such written comments should be sent to Mark C. Smith, State Public Defender's Office, 4th Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319; fax (515)281-7289; or E-mail [msmith@spd.state.ia.us](mailto:msmith@spd.state.ia.us).

A public hearing will be held on November 29, 2011, at 9 a.m. in Conference Room 424, 4th Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the State Public Defender and advise of specific needs.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 13B and 815.

The following amendments are proposed.

ITEM 1. Amend subrule 1.3(1) as follows:

**1.3(1) State public defender system.** The state public defender system is administered by the state public defender. The system consists of ~~four~~ three divisions: an administrative division, a ~~trial~~ local public defender division, and an appellate division ~~and the civil commitment unit.~~

## STATE PUBLIC DEFENDER[493](cont'd)

ITEM 2. Amend subrule 1.3(2) as follows:

**1.3(2) *Types of cases.*** Based on statutes and appropriate case law, the state public defender system provides representation for persons found to be indigent in the following types of cases:

- a. Felonies;
- b. Misdemeanors, if there exists a potential for jail sentence;
- c. Juvenile matters, including delinquency, termination of parental rights, child in need of assistance (CINA), judicial bypass proceedings, and juvenile commitments;
- d. Probation and parole revocation cases; ~~and~~
- e. Civil commitment proceedings under Iowa Code chapter 229A; and
- f. Other matters authorized by law.

ITEM 3. Amend subrule 1.3(5) as follows:

**1.3(5) ~~Trial~~ Local public defender division.** The ~~trial~~ local public defender division provides legal representation at the trial level to ~~indigent~~ qualified persons charged with adult crimes or in juvenile matters in counties where local public defender services are provided. The division also provides representation to qualified persons in juvenile appeals and in civil commitment proceedings under Iowa Code chapter 229A at the trial and appellate levels.

The ~~trial~~ local public defender division consists of independent local offices and branch offices. Each independent local office is under the direct supervision of a local public defender. A local public defender may supervise a branch office. If so, the branch office may be considered part of the local office.

ITEM 4. Rescind subrule **1.3(7)**.

ITEM 5. Rescind rule 493—1.4(13B) and adopt the following **new** rule in lieu thereof:

**493—1.4(13B) Information.** Information concerning the office of the state public defender or the state public defender system may be obtained by contacting the Office of the State Public Defender, Lucas State Office Building, Des Moines, Iowa 50319-0087; or by telephone (515)242-6158 or fax (515)281-7289. Office hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding state holidays. The state public defender's Web site address is <http://spd.iowa.gov>.

ITEM 6. Rescind and reserve rule **493—1.5(13B)**.

ITEM 7. Rescind subrule **4.15(4)**.

ITEM 8. Rescind rule 493—10.7(815) and adopt the following **new** rule in lieu thereof:

**493—10.7(815) Forms.** The state public defender shall promulgate forms to be used in court proceedings, including an Adult Affidavit of Financial Status, Juvenile Affidavit of Financial Status, Wage Assignment, and such other forms as the state public defender deems appropriate. Such forms shall be available at the administrative office of the state public defender and published on the state public defender's Web site at <http://spd.iowa.gov>.

ITEM 9. Amend paragraph **12.2(1)“a”** as follows:

a. A completed fee claim on a form promulgated by the state public defender. Adult fee claims, including misdemeanor appeals to district court, postconviction relief and applications for discretionary review or applications for interlocutory appeals to the Iowa supreme court, must be submitted on an Adult form. Juvenile fee claims, including petitions on appeal and applications for interlocutory appeals, must be submitted on a Juvenile form. Appellate fee claims, including claims for work performed after the granting of an application for discretionary review or for interlocutory appeal, or if full briefing is ordered following a petition on appeal, must be submitted on an Appellate form. The claim forms may be ~~obtained from the clerk of district court or~~ downloaded from the state public defender Web site: ~~www.spd.state-ia.us~~ <http://spd.iowa.gov>. Claims submitted ~~using forms downloaded from the Web site~~ that do not comply with the instructions on the Web site may be returned to the claimant for additional information and resubmission.

STATE PUBLIC DEFENDER[493](cont'd)

ITEM 10. Renumber subparagraphs **12.2(1)“b”(2) to (5)** as **12.2(1)“b”(3) to (6)**.

ITEM 11. Adopt the following **new** subparagraph **12.2(1)“b”(2)**:

(2) If, at the time of appointment, the attorney does not have a contract to represent indigent persons in the type of case and the county in which the action is pending, the appointment order must include either a finding that no attorney with a contract to represent indigent persons in that specific type of case and that county is available or a finding that the state public defender was consulted and consented to the appointment.

ITEM 12. Rescind subrule 12.2(10) and adopt the following **new** subrule in lieu thereof:

**12.2(10)** Claims for compensation from attorneys appointed as counsel or guardian ad litem at the trial level may be denied if the appointment does not comply with Iowa Code section 815.10.

*a.* Claims by attorneys whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after July 1, 2009, shall be denied if the state public defender had filed a designation effective at the time of the appointment designating a local public defender, nonprofit corporation, or attorney to represent indigent persons in that type of case in the county in which the case was filed, unless the appointment order and any supporting documentation submitted with the claim demonstrate that:

(1) The state public defender's designee and any successor designee has withdrawn from the case or has been offered and declined to take the case; or

(2) The state public defender's designee and any successor designee would have withdrawn from or would have declined to take the case had the appointment been offered.

*b.* Claims by attorneys whose appointment in a case as counsel or guardian ad litem at the trial level was made on or after February 1, 2012, shall be denied unless:

(1) At the time of the appointment, the attorney had a contract with the state public defender to represent indigent persons in that specific type of case and that county in which the the action was pending; or

(2) The appointment order includes a specific finding that no attorney with a contract to represent indigent persons in that specific type of case and that county in which the action was pending is available or a finding that the state public defender was consulted and consented to the appointment.

## USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

November 1, 2010 — November 30, 2010	4.75%
December 1, 2010 — December 31, 2010	4.50%
January 1, 2011 — January 31, 2011	4.75%
February 1, 2011 — February 28, 2011	5.25%
March 1, 2011 — March 31, 2011	5.50%
April 1, 2011 — April 30, 2011	5.50%
May 1, 2011 — May 31, 2011	5.50%
June 1, 2011 — June 30, 2011	5.50%
July 1, 2011 — July 31, 2011	5.25%
August 1, 2011 — August 31, 2011	5.00%
September 1, 2011 — September 30, 2011	5.00%
October 1, 2011 — October 31, 2011	4.25%
November 1, 2011 — November 30, 2011	4.00%

**ARC 9834B****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 249A.4 and 2011 Iowa Acts, House File 649, section 6(6), the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

This amendment removes the remaining exclusions from Medicaid coverage for drugs to promote cessation of smoking. Public Law 111-148, the Patient Protection and Affordable Care Act, mandates coverage of smoking cessation products for pregnant women by October 1, 2010, and for all Medicaid members by January 1, 2014. State Medicaid Director Letter 11-007, published June 24, 2011, clarified that all smoking cessation products (legend and over-the-counter) must be covered. Currently, Iowa does not cover legend nicotine nasal spray and oral inhaler products. Because of the limited cost expected, the Department has decided to expand coverage for all members at this time for ease of administration.

The Council on Human Services adopted this amendment on October 12, 2011.

The Department finds that notice and public participation are impracticable because, under federal law, this policy should already be in place. 2011 Iowa Acts, House File 649, section 6(6), allows the Department to file emergency rules if necessary to comply with federal requirements. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(3).

The Department finds that this amendment confers a benefit on Medicaid members by expanding coverage of drugs for smoking cessation. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of the amendment is waived.

This amendment is also published herein under Notice of Intended Action as **ARC 9835B** to allow for public comment.

This amendment does not provide for waivers in specified situations since it expands Medicaid coverage.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4 and Sections 4107 and 2502 of Public Law 111-148.

This amendment became effective November 1, 2011.

The following amendment is adopted.

Rescind and reserve subparagraph **78.2(4)“b”(4)**.

[Filed Emergency 10/13/11, effective 11/1/11]

[Published 11/2/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9841B****AGING, DEPARTMENT ON[17]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 231.23 and 17A.3, the Iowa Department on Aging hereby rescinds Chapter 10, "Senior Internship Program (SIP)," Iowa Administrative Code, and adopts a new Chapter 10 with the same title.

The rules in new Chapter 10 define the role, responsibilities, and procedures for operation of the Senior Internship Program (SIP). The new chapter is in response to a 25 percent reduction in federal program funding and has been updated to comply with recent changes in regulations and policy as mandated by the United States Department of Labor. Most changes within the rules are the result of updated terminology and new monitoring and grievance procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin on September 7, 2011, as **ARC 9733B**. The Department received two written comments. Both written comments were in support of the rules as published in the Notice of Intended Action. These rules are identical to those published under Notice of Intended Action.

The Iowa Commission on Aging adopted these rules on October 14, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 231.52.

These rules will become effective on December 7, 2011.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 10] is being omitted. These rules are identical to those published under Notice as **ARC 9733B**, IAB 9/7/11.

[Filed 10/14/11, effective 12/7/11]

[Published 11/2/11]

[For replacement pages for IAC, see IAC Supplement 11/2/11.]

**ARC 9816B****AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 159.5, the Department of Agriculture and Land Stewardship amends Chapter 1, "Administration," and adopts new Chapter 13, "Renewable Fuel Infrastructure Board—Organization," Chapter 14, "Renewable Fuel Infrastructure Program For Retail Motor Fuel Sites," Chapter 15, "Renewable Fuel Infrastructure Program For Biodiesel Terminal Grants," and Chapter 16, "Renewable Fuel Infrastructure Program Administration," Iowa Administrative Code.

The amendments carry out the transfer of the rules for the Renewable Fuel Infrastructure Board from the Iowa Department of Economic Development to the Department of Agriculture and Land Stewardship authorized by 2011 Iowa Acts, Senate File 531, division VII. The Department of Agriculture and Land Stewardship now provides for the administration of the related programs for retail motor fuel sites, biodiesel terminal grants, and the renewable fuel infrastructure fund.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 9583B** on June 29, 2011. The identical amendments were also Adopted and Filed Emergency as **ARC 9584B** on the same date. No comments were received from the public.

The Renewable Fuel Infrastructure Board met on October 4, 2011, and several editorial, nonsubstantive changes were made to the amendments published under Notice and Adopted and Filed Emergency. The word "yet" was added to the catchwords in 16.2(2), and the subrule now reads as follows:

**"16.2(2) Prospective grants for projects not yet commenced.** A grant may be awarded for an eligible project not yet commenced."

## AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21](cont'd)

In subrule 16.2(6), the term “infrastructure board” was changed to “board.” The subrule now reads as follows:

**“16.2(6) Multiple awards for multiple fuel types.**

**“a. At a single fuel site.** A person must file a separate application form for an ethanol infrastructure improvement grant and a biodiesel infrastructure improvement grant, respectively, at a single fuel site. The board may approve multiple improvements to the same retail motor fuel site for the full amount available for ethanol infrastructure and biodiesel infrastructure. Applications for ethanol and biodiesel infrastructure improvements must be written in separate cost-share agreements.

**“b. At multiple fuel sites.** A person may receive multiple grants as described in paragraph 16.2(6) ‘a’ for more than one motor fuel site. When considering multiple grants for multiple fuel sites, the board will make awards fairly and properly among applicants and geographic areas.”

In the introductory paragraph of subrule 16.5(2), “will” was changed to “shall,” and in paragraph 16.5(2) “b,” “included in” was changed to “that contains.” The paragraphs now read as follows:

**“16.5(2) Contract required.** The board shall direct the department to prepare a cost-share agreement which shall include terms and conditions of the grant established by the board. The agreement shall:”

**“b.** State the total cost of the project expressed in a project budget that contains sufficient detail to meet the requirements of the infrastructure board.”

“Will” was also changed to “shall” in the introductory paragraph of 16.5(5) “a”(2). The paragraph now reads as follows:

**“(2) Waiver due to demonstration of financial hardship** (repayment on a sliding scale and no 25 percent penalty). A grant recipient may seek a permanent waiver of exclusive use of the approved renewable fuel during the time period in which a cost-share agreement is in effect due to financial hardship. The grant recipient must demonstrate that continuing to dispense the renewable fuel at a project site will cause a financial hardship. A request for waiver due to financial hardship shall include documentation to show a ‘good faith’ effort to market the fuel, specifically the most recent six-month history of gallons of approved renewable fuel sold by month, marketing/advertising efforts, retail price comparison of E-85 to E-10 (or regular gasoline) or of biodiesel to regular diesel. If a waiver is granted, the 25 percent penalty will not be assessed, but the grant funds shall be repaid as follows:”

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapters 15G and 159 and 2011 Iowa Acts, Senate File 531.

These amendments will become effective on December 7, 2011, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amend 1.2(4) “a”; adopt Chs 13 to 16] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 9583B** and Adopted and Filed Emergency as **ARC 9584B**, IAB 6/29/11.

[Filed 10/5/11, effective 12/7/11]

[Published 11/2/11]

[For replacement pages for IAC, see IAC Supplement 11/2/11.]

**ARC 9832B**

**CAPITAL INVESTMENT BOARD, IOWA[123]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 15E.63, the Iowa Capital Investment Board hereby adopts amendments to Chapter 1, “Iowa Capital Investment Board—Administration,” and Chapter 2, “Tax Credits for Investments in Qualifying Businesses and Community-Based Seed Capital Funds,” Iowa Administrative Code.

## CAPITAL INVESTMENT BOARD, IOWA[123](cont'd)

Notice of Intended Action was published in IAB Vol. XXXIV, No. 5, p. 268, on September 7, 2011, as **ARC 9745B**.

Items 1 and 2 amend rule 123—1.6(15E) and the implementation sentence for Chapter 1 to reflect the current duties of the Iowa Capital Investment Board.

Item 3 amends 123—Chapter 2 by adding new rule 123—2.11(15E) to provide that responsibilities for the tax credit for investments in qualifying businesses and community-based seed capital funds have been transferred from the Iowa Capital Investment Board to the Economic Development Authority.

Item 4 amends the implementation sentence for 123—Chapter 2.

These amendments are identical to those published under Notice of Intended Action.

These amendments are being adopted by the Department of Revenue on behalf of the Iowa Capital Investment Board pursuant to an Administrative Services Agreement between the Department and the Board.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code section 15E.42 as amended by 2011 Iowa Acts, Senate File 517.

These amendments will become effective December 7, 2011, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

The following amendments are adopted.

ITEM 1. Amend rule 123—1.6(15E) as follows:

**123—1.6(15E) Duties of the board.** The primary duties of the board include the following:

~~1.6(1) To develop a system for issuance, registration and authorization of tax credits for investments in qualifying businesses and community-based seed capital funds as provided in 2002 Iowa Acts, House File 2271, section 3.~~

~~1.6(2) To establish the establishment of criteria and procedures for the issuance, transfer and redemption of contingent tax credits for investments made to the Iowa fund of funds as provided in 2002 Iowa Acts, House File 2078, section 6 Iowa Code section 15E.63.~~

~~1.6(3) To establish a system for the issuance and redemption of tax credits for investments in venture capital funds as provided in 2002 Iowa Acts, House File 2586, section 1.~~

~~1.6(4) On or before December 31 of the calendar year following the end of the immediately preceding fiscal year, to publish and present to the governor and the general assembly an annual report on the activities conducted pursuant to rule 123—2.1(15E). This report shall include a listing of eligible qualifying businesses and community-based seed capital funds and the number of tax credit certificates and the amount of tax credits issued.~~

ITEM 2. Amend **123—Chapter 1**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 15E as amended by 2002 Iowa Acts, House Files 2078, 2271 and 2586~~ section 15E.42 as amended by 2011 Iowa Acts, Senate File 517.

ITEM 3. Adopt the following new rule 123—2.11(15E):

**123—2.11(15E) Transfer of responsibilities for administration of the program.** Effective for tax years beginning and investments made on or after January 1, 2011, the responsibility for administering the tax credits for investments in qualifying businesses and community-based seed capital funds has been transferred from the Iowa capital investment board to the economic development authority.

ITEM 4. Amend **123—Chapter 2**, implementation sentence, as follows:

These rules are intended to implement Iowa Code ~~chapter 15E and 2007 Iowa Acts, House File 923~~ section 15E.42 as amended by 2011 Iowa Acts, Senate File 517.

[Filed 10/13/11, effective 12/7/11]

[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9840B****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

This amendment addresses out-of-state applicants who cannot receive the license in a timely manner. This amendment permits the applicant a full year to produce the out-of-state license; however, verification that the license is being processed will be required before the Class A license is issued.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 10, 2011, as **ARC 9661B**. A public hearing on the amendment was held on Wednesday, August 31, 2011. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 7, 2011.

The following amendment is adopted.

Amend subrule 13.17(1) as follows:

**13.17(1) *One-year teacher exchange license.***

*a.* For an applicant applying under 13.3(2), a one-year nonrenewable exchange license may be issued to the applicant under the following conditions:

(1) The applicant has completed a state-approved, regionally accredited teacher education program; and

(2) The applicant has the recommendation for the specific license and endorsement(s) from the designated recommending official at the recognized non-Iowa institution where the preparation was completed; and

(3) The applicant holds and submits a copy of a valid ~~regular~~ and current certificate or license in the state in which the preparation was completed or in which the applicant is currently teaching, exclusive of a temporary, emergency or substitute license or certificate; ~~and~~

1. If the applicant's out-of-state license is expired, a one-year teacher exchange license may be issued and the lack of a valid and current out-of-state license will be listed as a deficiency;

2. If the applicant submits verification that the applicant has applied for and will receive the applicant's first teaching license and is waiting for the processing or printing of a valid and current out-of-state license, a regional exchange license may be issued and the lack of a valid and current out-of-state license will be listed as a deficiency; and

(4) If the applicant has fewer than three years of teaching experience or is being recommended for a K-6 elementary education endorsement, the applicant must verify successful completion of mandated tests in the state in which the applicant is currently licensed; and

(5) Each exchange license shall be limited to the area(s) and level(s) of instruction as determined by an analysis of the application, the transcripts and the license or certificate held in the state in which the basic preparation for licensure was completed or of the application and the credential evaluation report. The applicant must have completed at least 75 percent of the endorsement requirements through a two- or four-year institution in order for the endorsement to be included on the exchange license; and

(6) The applicant is not subject to any pending disciplinary proceedings in any state or country; and

(7) The applicant complies with all requirements with regard to application processes and payment of licensure fees.

*b.* After the term of the exchange license has expired, the applicant may apply to be fully licensed if the applicant has completed all requirements and is eligible for full licensure.



## EDUCATIONAL EXAMINERS BOARD[282](cont'd)

c. If the lack of a valid and current out-of-state license was listed as a deficiency, the one-year teacher exchange license shall not be converted or extended until a valid and current out-of-state license is presented to remove the deficiency.

[Filed 10/14/11, effective 12/7/11]

[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9839B**

**EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

The amendment allows a holder of the physics endorsement to easily add the mathematics endorsement. This amendment, suggested by an advisory committee, will offer applicants a different path to obtaining a mathematics endorsement and, potentially, will attract more applicants for hard-to-fill positions.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 10, 2011, as **ARC 9662B**. A public hearing on the amendment was held on Wednesday, August 31, 2011. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 7, 2011.

The following amendment is adopted.

Amend subrule 13.28(12) as follows:

**13.28(12) Mathematics.**

*a. K-8.* Completion of 24 semester hours in mathematics to include coursework in algebra, geometry, number theory, measurement, computer programming, and probability and statistics.

*b. 5-12.*

(1) Completion of 24 semester hours in mathematics to include a linear algebra or an abstract (modern) algebra course, a geometry course, a two-course sequence in calculus, a computer programming course, a probability and statistics course, and coursework in discrete mathematics.

(2) For holders of the physics 5-12 endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

(3) For holders of the all science 9-12 endorsement, completion of 17 semester hours in mathematics to include a geometry course, a two-course sequence in calculus, a probability and statistics course, and coursework in discrete mathematics.

[Filed 10/14/11, effective 12/7/11]

[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9838B****EDUCATIONAL EXAMINERS BOARD[282]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 272.2, the Board of Educational Examiners hereby amends Chapter 13, "Issuance of Teacher Licenses and Endorsements," Iowa Administrative Code.

This amendment allows a holder of the mathematics or chemistry endorsement to easily add the physics endorsement. This amendment, suggested by an advisory committee, will offer applicants a different path to obtaining a physics endorsement and, potentially, will attract more applicants for hard-to-fill positions.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 10, 2011, as **ARC 9663B**. A public hearing on the amendment was held on Wednesday, August 31, 2011. No one attended the public hearing, and no written comments were received. This amendment is identical to that published under Notice.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 272.

This amendment will become effective December 7, 2011.

The following amendment is adopted.

Amend paragraph **13.28(17)"g"** as follows:

*g. Physics.*

(1) 5-12. Completion of 24 semester hours in physics or 30 semester hours in the broad area of science to include 15 semester hours in physics.

(2) For holders of the mathematics 5-12 endorsement, completion of:

1. 12 credits of physics to include coursework in mechanics, electricity, and magnetism; and

2. A methods class that includes inquiry-based instruction, resource management, and laboratory safety.

(3) For holders of the chemistry 5-12 endorsement, completion of 12 credits of physics to include coursework in mechanics, electricity, and magnetism.

[Filed 10/14/11, effective 12/7/11]

[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9829B****HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 232.142(4), the Department of Human Services hereby amends Chapter 105, "County and Multicounty Juvenile Detention Homes and County and Multicounty Juvenile Shelter Care Homes," Iowa Administrative Code.

These amendments add to existing standards for approval of juvenile shelter care and detention facilities the requirement to conduct record checks on volunteers. Child abuse and criminal record checks are already required for persons employed by or residing in these facilities. Legislation in 2011 Iowa Acts, Senate File 482, division VI, authorizes the release of child abuse and dependent adult abuse records to these facilities for volunteers.

The amendments also shorten the chapter title for convenience and remove a prohibition on sharing record check information with applicants or employees. To give the applicant or employee the opportunity to request an evaluation of a criminal or child abuse record, the nature of the record must be revealed.

## HUMAN SERVICES DEPARTMENT[441](cont'd)

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on August 24, 2011, as **ARC 9687B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on October 12, 2011.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 232.142 as amended by 2011 Iowa Acts, Senate File 482, section 7.

These amendments shall become effective on January 1, 2012.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [105.3(3), 105.5(5)] is being omitted. These amendments are identical to those published under Notice as **ARC 9687B**, IAB 8/24/11.

[Filed 10/12/11, effective 1/1/12]

[Published 11/2/11]

[For replacement pages for IAC, see IAC Supplement 11/2/11.]

**ARC 9828B****IOWA FINANCE AUTHORITY[265]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(1)"r" and 16.40, the Iowa Finance Authority hereby amends Chapter 41, "Shelter Assistance Fund," Iowa Administrative Code.

The purpose of these amendments is to update the rules to comply with federal guidance relating to the administration of the Shelter Assistance Fund to provide financial assistance for the rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9643B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 9642B** on the same date. The Authority did not receive any public comment on the proposed amendments. No changes have been made to the amendments published under Notice and Adopted and Filed Emergency.

The Iowa Finance Authority adopted these amendments on October 12, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.5(1)"m."

These amendments will become effective on December 7, 2011, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend rule 265—41.6(16) as follows:

**265—41.6(16) Application procedures.** IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD for the ESG program. Requests for proposals will combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match for the ESG program, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

IOWA FINANCE AUTHORITY[265](cont'd)

ITEM 2. Amend subrule 41.10(5) as follows:

**41.10(5) Data reporting system.** ~~Subrecipients~~ Recipients and subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract, unless the recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient or subrecipient shall participate in required data collection and reporting activities using a comparable database as defined by HUD (HUD HMIS Data Standards, Revised Notice March 2011).

ITEM 3. Amend paragraph **41.12(3)“a”** as follows:

a. HMIS data reports. All recipients and subrecipients of SAF program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA; ~~provided, however, that unless a recipient or subrecipient that qualifies as a domestic violence shelter shall not be required to report personally identifiable information about its homeless domestic violence clients. “Personally identifiable information” shall include any information that the reporting domestic violence shelter reasonably determines could be used to identify a particular client, in which case the recipient or subrecipient must submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.~~

[Filed 10/12/11, effective 12/7/11]

[Published 11/2/11]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9830B**

## **IOWA FINANCE AUTHORITY[265]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3(1)“b,” 16.5(1)“r” and 16.40, the Iowa Finance Authority hereby amends Chapter 42, “Emergency Shelter Grants Program,” Iowa Administrative Code.

The purpose of these amendments is to update the rules to comply with federal guidance relating to the administration of a fund to provide financial assistance for the rehabilitation, expansion, or costs of operations of group home shelters for the homeless and domestic violence shelters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9635B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 9633B** on the same date. The Authority did not receive any public comment on the proposed amendments. No changes have been made to the amendments published under Notice and Adopted and Filed Emergency.

The Iowa Finance Authority adopted these amendments on October 12, 2011.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.5(1)“m” and 42 U.S.C. Sections 11371 to 11378.

These amendments will become effective on December 7, 2011, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

The following amendments are adopted.

ITEM 1. Adopt the following new subrule 42.4(6):

**42.4(6) Homeless Management Information System (HMIS) projects.** IFA may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total emergency shelter grants program allocation. Eligible costs may include equipment, software, services, personnel, space and operations for HMIS activities. In the case of parties to a supportive housing grant agreement or renewal grant agreement with the United States Department of Housing and Urban Development for HMIS implementation who are in need of the required cash match, IFA may in its discretion award such a grant, subject to the

IOWA FINANCE AUTHORITY[265](cont'd)

terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16).

ITEM 2. Amend rule 265—42.6(16) as follows:

**265—42.6(16) Application procedures.** IFA will issue requests for proposals from eligible applicants as often as the state expects funding from HUD. Requests for proposals will combine the ESG program with the SAF program. The proposals must be submitted on the forms or on-line system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

ITEM 3. Amend subrule 42.10(5) as follows:

**42.10(5) Data reporting system.** Recipients and subrecipients shall participate in the HUD-approved Homeless Management Information System (HMIS) adopted by IFA as required in the executed contract, unless the recipient or subrecipient qualifies as a domestic violence shelter, in which case the recipient or subrecipient shall participate in required data collection and reporting activities using a comparable database defined by HUD (HUD HMIS Data Standards, Revised Notice March 2011).

ITEM 4. Amend subrule 42.12(3) as follows:

**42.12(3) Reporting requirements.** Recipients and subrecipients shall submit reports to IFA as prescribed in the contract. Reports include:

*a.* HMIS data reports. All recipients and subrecipients of ESG program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA; ~~provided, however, that unless a recipient or subrecipient that qualifies as a domestic violence shelter shall not be required to report personally identifiable information about its homeless domestic violence clients. "Personally identifiable information" shall include any information that the reporting domestic violence shelter reasonably determines could be used to identify a particular client, in which case the recipient or subrecipient must submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.~~

*b.* Requests for funds. Recipients and subrecipients must submit requests for funds during the contract year at intervals and using forms as prescribed by IFA. IFA may perform any review or field inspections it deems necessary to ensure program compliance, including review of recipient and subrecipient records and reports. When problems of compliance are noted, IFA may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in 42.12(5).

[Filed 10/12/11, effective 12/7/11]

[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9827B**

## **PUBLIC SAFETY DEPARTMENT[661]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 100.1, the State Fire Marshal hereby amends Chapter 201, "General Fire Safety Requirements," Iowa Administrative Code.

The State Fire Marshal, the Building Code Commissioner, and the Electrical Examining Board all have authority to adopt requirements for electrical installations and have agreed to attempt to coordinate their rule making in this area and, as a general policy, to adopt succeeding editions of the National Electrical Code in a timely fashion. The rule adopted herein updates the adoption to the latest (2011) edition of the National Electrical Code, with amendments. Identical rule making is being undertaken

PUBLIC SAFETY DEPARTMENT[661](cont'd)

by the Electrical Examining Board and by the Building Code Commissioner. Those rule makings are published herein as **ARC 9825B** and **ARC 9826B**, respectively.

This amendment was proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9628B**. A public hearing on the proposed amendment was held jointly with the Electrical Examining Board and the Building Code Commissioner on August 18, 2011. Comments were received from representatives of the Home Builders Association of Iowa, the National Fire Protection Association, and other interested parties. There were expressions of support for adoption of the 2011 edition of the National Electrical Code without any amendments. Commenters also expressed support for adoption of the new edition of the Code while retaining amendments that had been included in adoption of the prior edition of the Code, which provided exceptions for situations in which ground fault circuit interrupters are required.

The State Fire Marshal has concluded that exemption of certain electrical installations from the required use of ground fault circuit interrupters is appropriate. Consequently, the adopted rule published herein differs from the amended rule proposed in the Notice of Intended Action in that it includes amendments exempting certain installations from the required use of ground fault circuit interrupters.

No fiscal impact is anticipated.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 100.

This amendment will become effective January 1, 2012.

The following amendment is adopted.

Rescind rule 661—201.3(100) and adopt the following new rule in lieu thereof:

**661—201.3(100) Electrical installations.** Electrical installations shall comply with the provisions of NFPA 70, National Electrical Code, 2011 edition, with the following amendments:

**201.3(1)** Add the following exceptions to section 210.8, paragraph (A), subparagraph (2):

- a. Exception No. 1 to (2): Receptacles that are not readily accessible.
- b. Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).
- c. Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

**201.3(2)** Add the following exceptions to section 210.8, paragraph (A), subparagraph (5):

- a. Exception No. 2 to (5): Receptacles that are not readily accessible.
- b. Exception No. 3 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).
- c. Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

This rule is intended to implement Iowa Code chapter 100.

[Filed 10/12/11, effective 1/1/12]

[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9826B**

**PUBLIC SAFETY DEPARTMENT[661]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 103A.7, the Building Code Commissioner, with the approval of the Building Code Advisory Council, hereby amends Chapter 301, "State Building Code—General Provisions," Iowa Administrative Code.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The Building Code Commissioner, the State Fire Marshal, and the Electrical Examining Board all have authority to adopt requirements for electrical installations. The Building Code Commissioner, the State Fire Marshal, and the Electrical Examining Board have agreed to attempt to coordinate their rule making in this area and, as a general policy, to adopt succeeding editions of the National Electrical Code in a timely fashion. The rule adopted herein updates the adoption to the latest (2011) edition of the National Electrical Code, with amendments. Identical rule making is being undertaken by the Electrical Examining Board and by the State Fire Marshal. Those rule makings are published herein as **ARC 9825B** and **ARC 9827B**, respectively.

This amendment was proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9629B**. A public hearing on the proposed amendment was held jointly with the Electrical Examining Board and the State Fire Marshal on August 18, 2011. Comments were received from representatives of the Home Builders Association of Iowa, the National Fire Protection Association, and other interested parties. There were expressions of support for adoption of the 2011 edition of the National Electrical Code without any amendments. Commenters also expressed support for adoption of the new edition of the Code while retaining amendments that had been included in adoption of the prior edition of the Code, which provided exceptions for situations in which ground fault circuit interrupters are required.

The Building Code Commissioner has concluded that it is appropriate to exempt certain electrical installations from the use of ground fault circuit interrupters. Consequently, the adopted rule published herein differs from the amended rule proposed in the Notice of Intended Action in that it includes amendments exempting certain installations from the required use of ground fault circuit interrupters.

No fiscal impact is anticipated.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 103A.

This amendment will become effective January 1, 2012.

The following amendment is adopted.

Rescind rule 661—301.5(103A) and adopt the following **new** rule in lieu thereof:

**661—301.5(103A) Electrical requirements.** The provisions of the National Electrical Code, 2011 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are hereby adopted by reference as the requirements for electrical installations, with the following amendments:

**301.5(1)** Add the following exceptions to section 210.8, paragraph (A), subparagraph (2):

- a. Exception No. 1 to (2): Receptacles that are not readily accessible.
- b. Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).
- c. Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

**301.5(2)** Add the following exceptions to section 210.8, paragraph (A), subparagraph (5):

- a. Exception No. 2 to (5): Receptacles that are not readily accessible.
- b. Exception No. 3 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).
- c. Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

This rule is intended to implement Iowa Code chapter 103A.

[Filed 10/12/11, effective 1/1/12]

[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9825B****PUBLIC SAFETY DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 103.6, the Electrical Examining Board hereby amends Chapter 504, “Standards for Electrical Work,” Iowa Administrative Code.

The Electrical Examining Board is authorized by Iowa Code section 103.6 to adopt standards for electrical work performed by persons licensed by the Board and in installations subject to inspection by the State Electrical Inspection Program. The statute requires that these standards be based upon the most current edition of the National Electrical Code published by the National Fire Protection Association. The rule adopted herein updates the adoption to the latest (2011) edition of the National Electrical Code, with amendments. Similar rule makings are being undertaken by the Building Code Commissioner and the State Fire Marshal, each of whom also has authority to adopt standards for electrical installations. The rule makings are published herein as **ARC 9826B** and **ARC 9827B**, respectively.

This amendment was proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9630B**. A public hearing on the proposed amendment was held jointly with the State Fire Marshal and the Building Code Commissioner on August 18, 2011. Comments were received from representatives of the Home Builders Association of Iowa, the National Fire Protection Association, and other interested parties. There were expressions of support for adoption of the 2011 edition of the National Electrical Code without any amendments. Commenters also expressed support for adoption of the new edition of the Code while retaining amendments that had been included in adoption of the prior edition of the Code, which provided exceptions for situations in which ground fault circuit interrupters are required.

The Electrical Examining Board concluded that it is appropriate to exclude certain electrical installations from the required use of ground fault circuit interrupters. Consequently, the adopted rule published herein differs from the amended rule proposed in the Notice of Intended Action in that it includes amendments exempting certain installations from the required use of ground fault circuit interrupters.

No fiscal impact is anticipated.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code chapter 103.

This amendment will become effective January 1, 2012.

The following amendment is adopted.

Rescind rule 661—504.1(103) and adopt the following new rule in lieu thereof:

**661—504.1(103) Installation requirements.** The provisions of the National Electrical Code, 2011 edition, published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471, are adopted as the requirements for electrical installations performed by persons licensed pursuant to 661—Chapters 500 through 503 and to installations subject to inspection pursuant to Iowa Code chapter 103 with the following amendments:

**504.1(1)** Add the following exceptions to section 210.8, paragraph (A), subparagraph (2):

- a. Exception No. 1 to (2): Receptacles that are not readily accessible.
- b. Exception No. 2 to (2): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).
- c. Receptacles installed under the exceptions to 210.8(A)(2) shall not be considered as meeting the requirements of 210.52(G).

**504.1(2)** Add the following exceptions to section 210.8, paragraph (A), subparagraph (5):

- a. Exception No. 2 to (5): Receptacles that are not readily accessible.



## PUBLIC SAFETY DEPARTMENT[661](cont'd)

b. Exception No. 3 to (5): A single receptacle or a duplex receptacle for two appliances located within dedicated space for each appliance that, in normal use, is not easily moved from one place to another and that is cord-and-plug connected in accordance with 400.7(A)(6), (A)(7), or (A)(8).

c. Receptacles installed under the exceptions to 210.8(A)(5) shall not be considered as meeting the requirements of 210.52(G).

This rule is intended to implement Iowa Code chapter 103.

[Filed 10/12/11, effective 1/1/12]

[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9821B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 12, "Filing Returns, Payment of Tax, Penalty and Interest," Chapter 40, "Determination of Net Income," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Chapter 53, "Determination of Net Income," and Chapter 67, "Administration," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXIV, No. 5, p. 347, on September 7, 2011, as **ARC 9741B**.

Item 1 amends 701—Chapter 12 by adding new rule 701—12.18(423) to provide for the biodiesel production refund for sales and use tax for certain producers of biodiesel.

Item 2 amends 701—Chapter 40 by adding new rule 701—40.77(422) to provide for the exclusion from Iowa individual income tax of the amount of biodiesel production refund reported as income on the federal income tax return.

Items 3, 4 and 5 amend the introductory paragraph of rule 701—42.33(422), subrule 42.33(1) and the implementation sentence for rule 701—42.33(422) to provide for changes in the E-85 gasoline promotion tax credit for Iowa individual income tax for E-85 gasoline gallons sold on or after January 1, 2012.

Items 6, 7 and 8 amend the introductory paragraph of rule 701—42.34(422), subrule 42.34(1) and the implementation sentence for rule 701—42.34(422) to provide for changes in the biodiesel blended fuel tax credit for Iowa individual income tax for biodiesel blended fuel gallons sold on or after January 1, 2012.

Items 9, 10 and 11 amend subrule 42.39(2), subrule 42.39(5) and the implementation sentence for rule 701—42.39(422) to provide for changes in the ethanol promotion tax credit for Iowa individual income tax for ethanol blended gallons sold on or after January 1, 2011.

Item 12 amends 701—Chapter 42 by adding new rule 701—42.46(422) to provide for the new E-15 plus gasoline promotion tax credit for individual income tax for E-15 plus gasoline gallons sold on or after July 1, 2011.

Items 13, 14 and 15 amend the introductory paragraph of rule 701—52.30(422), subrule 52.30(1) and the implementation sentence for rule 701—52.30(422) to provide for changes in the E-85 gasoline promotion tax credit for Iowa corporation income tax for E-85 gasoline gallons sold on or after January 1, 2012. These changes are similar to the changes in Items 3, 4 and 5.

Items 16, 17 and 18 amend the introductory paragraph of rule 701—52.31(422), subrule 52.31(1) and the implementation sentence for rule 701—52.31(422) to provide for changes in the biodiesel blended fuel tax credit for Iowa corporation income tax for biodiesel blended fuel gallons sold on or after January 1, 2012. These changes are similar to the changes in Items 6, 7 and 8.

Items 19 and 20 amend subrules 52.36(2) and 52.36(5) to provide for changes in the ethanol promotion tax credit for Iowa corporation income tax for ethanol blended gallons sold on or after January 1, 2011.

## REVENUE DEPARTMENT[701](cont'd)

These changes are similar to the changes in Items 9 and 10. Item 21 amends the implementation sentence in rule 701—52.36(422).

Item 22 amends 701—Chapter 52 by adding new rule 701—52.43(422) to provide for the new E-15 plus gasoline promotion tax credit for corporation income tax for E-15 plus gasoline gallons sold on or after July 1, 2011. This change is similar to the change in Item 12.

Item 23 amends 701—Chapter 53 by adding new rule 701—53.26(422) to provide for the exclusion from Iowa corporation income tax of the amount of biodiesel production refund reported as income on the federal income tax return. This change is similar to the change in Item 2.

Items 24 and 25 amend rule 701—67.27(452A) and the implementation sentence for rule 701—67.27(452A) to provide that the annual report filed by retail dealers of motor fuel must include the number of motor fuel gallons sold on both a companywide basis and a site-by-site basis.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments will become effective December 7, 2011, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 422.7, 422.11N, 422.11O, 422.33, 422.35 and 452A.33 as amended by 2011 Iowa Acts, Senate File 531; sections 422.11P and 423.4 as amended by 2011 Iowa Acts, Senate File 531 and Senate File 533; and 2011 Iowa Acts, Senate File 531, section 35, as amended by 2011 Iowa Acts, Senate File 533.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 12, 40, 42, 52, 53, 67] is being omitted. These amendments are identical to those published under Notice as **ARC 9741B**, IAB 9/7/11.

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[Published 11/2/11]

[For replacement pages for IAC, see IAC Supplement 11/2/11.]

**ARC 9822B**

**REVENUE DEPARTMENT[701]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 38, "Administration," and Chapter 40, "Determination of Net Income," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXIV, No. 5, p. 358, on September 7, 2011, as **ARC 9739B**.

Items 1 and 2 amend subrules 38.17(3) and 40.5(2) to provide a cross reference to new rule 701—40.76(422).

Item 3 amends rule 701—40.61(422) to provide for an exclusion from Iowa individual income tax for active duty pay received by national guard members and armed forces reserve members for service under military orders for Operation New Dawn for tax years beginning on or after January 1, 2010.

Item 4 amends 701—Chapter 40 by adopting new rule 701—40.76(422), which provides for an exclusion from Iowa individual income tax for all pay received from the federal government for military service performed while on active duty status in the armed forces, armed forces military reserve, or the national guard for tax years beginning on or after January 1, 2011.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments will become effective December 7, 2011, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

## REVENUE DEPARTMENT[701](cont'd)

These amendments are intended to implement Iowa Code section 422.7 as amended by 2011 Iowa Acts, House File 652.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [38.17(3), 40.5(2), 40.61, 40.76] is being omitted. These amendments are identical to those published under Notice as **ARC 9739B**, IAB 9/7/11.

[Filed 10/12/11, effective 12/7/11]

[Published 11/2/11]

[For replacement pages for IAC, see IAC Supplement 11/2/11.]

**ARC 9820B****REVENUE DEPARTMENT[701]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby adopts amendments to Chapter 38, "Administration," Chapter 40, "Determination of Net Income," Chapter 41, "Determination of Taxable Income," Chapter 42, "Adjustments to Computed Tax and Tax Credits," Chapter 44, "Penalty and Interest," Chapter 52, "Filing Returns, Payment of Tax, Penalty and Interest, and Tax Credits," Chapter 53, "Determination of Net Income," and Chapter 59, "Determination of Net Income," Iowa Administrative Code.

Notice of Intended Action was published in IAB Vol. XXXIV, No. 5, p. 361, on September 7, 2011, as **ARC 9740B**.

Item 1 amends subrule 38.19(2) to clarify that applications are no longer mailed by the Department when notifying taxpayers that they may be eligible for health care coverage for the Medicaid or HAWK-I program.

Item 2 amends rule 701—40.1(422) to reference new rules 701—40.76(422) through 701—40.79(422).

Items 3 and 4 amend rule 701—40.60(422) by adding new subrule 40.60(5) and amending the implementation clause to provide that bonus depreciation provided in Section 168(k) of the Internal Revenue Code for assets acquired after December 31, 2009, but before January 1, 2013, does not apply for Iowa individual income tax.

Item 5 amends rule 701—40.65(422) to provide that the increase in the expensing allowance provided in Section 179(b) of the Internal Revenue Code does apply for Iowa individual income tax for tax years beginning on or after January 1, 2010.

Item 6 amends the implementation clause for rule 701—40.65(422).

Item 7 amends rule 701—40.67(422) to update the alternative motor vehicles which qualify for the deduction up to \$2,000 for Iowa individual income tax.

Item 8 amends rule 701—40.73(422) to clarify that the exclusion from Iowa individual income tax for health care benefits of nonqualified tax dependents is the same as allowed for federal income tax purposes for tax years beginning on or after January 1, 2011.

Item 9 amends 701—Chapter 40 by adding new rules 701—40.78(422) regarding allowance of certain deductions for Iowa individual income tax for the 2008 tax year and 701—40.79(422) regarding special filing provisions related to 2010 tax changes for Iowa individual income tax.

Item 10 amends subrule 41.5(2) to provide that the itemized deduction for state sales and use tax in lieu of state income tax is available for tax years beginning on or after January 1, 2010, but before January 1, 2012.

Item 11 amends the implementation clause for rule 701—41.5(422).

Item 12 amends rule 701—42.4(422) to provide clarification on how the tuition and textbook credit for Iowa individual income tax should be allocated between spouses.

## REVENUE DEPARTMENT[701](cont'd)

Item 13 amends subrule 42.11(3) to provide for the alternative simplified method to compute the Iowa research activities credit for individual income tax for tax years beginning on or after January 1, 2010.

Item 14 amends the implementation clause for rule 701—42.11(15,422).

Item 15 rescinds and reserves rule 701—44.5(422). This rule has been superseded by the change in Item 9 which now allows a deduction for disaster-related casualty losses for the 2008 tax year consistent with Section 165(h) of the Internal Revenue Code.

Items 16, 17 and 18 amend subrules 52.7(3), 52.7(5) and 52.7(6) to provide for the alternative simplified method to compute the Iowa research activities credit for corporation income tax for tax years beginning on or after January 1, 2010.

Item 19 amends the implementation clause for rule 701—52.7(422).

Item 20 amends rule 701—53.1(422) to reference new rule 701—53.26(422).

Items 21 and 22 amend rule 701—53.22(422) by adding new subrule 53.22(5) and amending the implementation clause to provide that bonus depreciation provided in Section 168(k) of the Internal Revenue Code for assets acquired after December 31, 2009, but before January 1, 2013, does not apply for Iowa corporation income tax. This change is similar to the change in Items 3 and 4.

Item 23 amends rule 701—53.23(422), introductory paragraph, to provide that the increase in the expensing allowance provided in Section 179(b) of the Internal Revenue Code does apply for Iowa corporation income tax for tax years beginning on or after January 1, 2010. This change is similar to the change in Item 5.

Items 24 and 25 amend rule 701—53.23(422) by adding new subrule 53.23(3) and amending the implementation clause to provide for special filing provisions for Iowa corporation income tax for 2010 changes related to the increase in the Section 179 expensing amount.

Items 26 and 27 amend rule 701—59.23(422) by adding new subrule 59.23(5) and amending the implementation clause to provide that bonus depreciation provided in Section 168(k) of the Internal Revenue Code for assets acquired after December 31, 2009, but before January 1, 2013, does not apply for Iowa franchise tax. This change is similar to the change in Items 3 and 4 and Items 21 and 22.

Item 28 amends rule 701—59.24(422), introductory paragraph, to provide that the increase in the expensing allowance provided in Section 179(b) of the Internal Revenue Code does apply for Iowa franchise tax for tax years beginning on or after January 1, 2010. This change is similar to the change in Items 5 and 23.

Items 29 and 30 amend rule 701—59.24(422) by adding new subrule 59.24(3) and amending the implementation clause for rule 701—59.24(422) to provide for special filing provisions for Iowa franchise tax for 2010 changes related to the increase in the Section 179 expensing amount. This change is similar to the change in Items 24 and 25.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments will become effective December 7, 2011, after filing with the Administrative Rules Coordinator and publication in the Iowa Administrative Bulletin.

These amendments are intended to implement Iowa Code sections 15.335, 15A.9, 422.3, 422.5, 422.7, 422.9, 422.10, 422.32, 422.33 and 422.35 as amended by 2011 Iowa Acts, Senate File 512, and sections 422.7 and 422.9 as amended by 2011 Iowa Acts, Senate File 533.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 38, 40 to 42, 44, 52, 53, 59] is being omitted. These amendments are identical to those published under Notice as **ARC 9740B**, IAB 9/7/11.

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[Published 11/2/11]

[For replacement pages for IAC, see IAC Supplement 11/2/11.]

## ARC 9833B

## TRANSPORTATION DEPARTMENT[761]

## Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12 and 2011 Iowa Acts, Senate File 312, section 3, the Iowa Department of Transportation, on October 12, 2011, adopted amendments to Chapter 400, "Vehicle Registration and Certificate of Title," and Chapter 401, "Special Registration Plates," Iowa Administrative Code.

Notice of Intended Action for these amendments was published in the September 7, 2011, Iowa Administrative Bulletin as **ARC 9742B**.

The amendments implement 2011 Iowa Acts, House File 651, which was effective July 1, 2011, and provide for combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, combat medical badge, civil war sesquicentennial, and fallen peace officers special registration plates.

The amendments also implement 2011 Iowa Acts, Senate File 312, which was effective July 1, 2011, and apply to registration plates issued during registration periods beginning on or after January 1, 2012. 2011 Iowa Acts, Senate File 312, section 3, allows the Department to adopt rules requiring the use of a sticker for special trucks when regular registration plates or special registration plates are displayed in lieu of special truck registration plates.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

These amendments are identical to those published under Notice of Intended Action.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 321, 2011 Iowa Acts, House File 651, and 2011 Iowa Acts, Senate File 312.

These amendments will become effective December 7, 2011.

Rule-making actions:

ITEM 1. Adopt the following new subrule 400.53(4):

**400.53(4) *Special truck sticker.*** An owner of a special truck, registered pursuant to Iowa Code section 321.121, who has been issued either regular registration plates or special registration plates other than special truck registration plates must obtain from the county treasurer a sticker which distinguishes the vehicle as a special truck. The sticker shall be affixed to the lower right corner of the rear registration plate. EXCEPTION: If the vehicle displays front and rear plates, two stickers shall be issued with one sticker affixed to the lower right corner of the front plate and rear plate. For natural resources plates, the stickers must be affixed to the lower left corner of the front and rear plates.

ITEM 2. Amend rule **761—400.53(321)**, implementation sentence, as follows:

This rule is intended to implement Iowa Code sections 321.34, 321.40, 321.41, 321.121 as amended by 2011 Iowa Acts, Senate File 312, section 3, and 321.166.

ITEM 3. Adopt the following new rule 761—401.18(321):

**761—401.18(321) Combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, combat medical badge, fallen peace officers and civil war sesquicentennial plates.** Following is the application and approval process for special plate requests under Iowa Code section 321.34 as amended by 2011 Iowa Acts, House File 651, section 2.

**401.18(1) *Design.***

a. The plates shall be a standard background plate with a distinguishing processed emblem specific to each plate type, consistent with processed emblems approved pursuant to rule 761—401.15(321).

b. The distinguishing processed emblem shall be limited to 3" × 3½" on the registration plate.

## TRANSPORTATION DEPARTMENT[761](cont'd)

c. A distinguishing processed emblem owned or subject to legal rights of another person will not be used unless the department receives certification from the person that allows use of the emblem. The certification must include a statement holding the department harmless for using the emblem on a registration plate.

d. The office of vehicle services may consult with other organizations, law enforcement authorities, and the general public concerning distinguishing processed emblems.

**401.18(2) Production.** None of the special registration plates subject to this rule will be manufactured or issued until 250 paid applications are submitted to the department. This minimum order requirement applies to each of the special registration plates subject to this rule. Each application must be accompanied by a statutory start-up fee.

**401.18(3) Discontinuance.** If 250 paid applications for any special registration plate subject to this rule are not submitted within one year after the date the department makes the plate available for application, the department shall report that fact to the legislature at the next regular session of the general assembly and request authority to discontinue the special registration plate.

**401.18(4) Application process.**

a. Applications for either letter-number designated or personalized combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal, or combat medical badge special registration plates shall be submitted to the department on a form prescribed by the department. The applicant shall attach to the application a copy of an official government document verifying award of the combat infantryman badge, combat action badge, combat action ribbon, air force combat action medal or combat medical badge to the applicant.

b. Applications for letter-number designated civil war sesquicentennial or fallen peace officers special registration plates shall be submitted to the county treasurer.

c. Applications for personalized civil war sesquicentennial or fallen peace officers special registration plates shall be submitted to the department on a form prescribed by the department.

**401.18(5) Characters.** Plates are limited to five characters. Personalized plates shall consist of no less than two nor more than five characters and shall be issued in accordance with subrule 401.6(2), paragraphs "a" to "d."

**401.18(6) Right of approval.** The department reserves the right to approve or disapprove any application.

ITEM 4. Amend **761—Chapter 401**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 35A.11 as amended by 2011 Iowa Acts, House File 651, section 1, 321.34 as amended by 2011 Iowa Acts, House File 651, section 2, 321.105, 321.166 and 321L.1.

[Filed 10/13/11, effective 12/7/11]

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**ARC 9831B**

**UTILITIES DIVISION[199]**

**Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.2, and 476.6(8), the Utilities Board (Board) gives notice that on October 13, 2011, the Board issued an order in Docket No. RMU-2011-0002, In re: Capital Infrastructure Investment Automatic Adjustment Mechanism for Rate-Regulated Natural Gas Utilities [199 IAC 19.18], "Order Adopting Rule." The rule adopted by the Board establishes two alternative procedures for automatic adjustment mechanisms through which rate-regulated natural gas utilities will be able to recover certain costs between general rate proceeding filings. To recover eligible investments under one of the procedures, the utility will be required to file for Board approval a proposed automatic adjustment mechanism that meets the four criteria established by the rule. Under the other automatic

## UTILITIES DIVISION[199](cont'd)

adjustment mechanism, a utility will be able to file a proposed tariff, with the information required by the adopted rule, that establishes a rate for recovery of eligible capital infrastructure investments that are required by governmental mandates or state or federal natural gas pipeline safety regulations. The Board has authority pursuant to Iowa Code section 476.6(8) to approve automatic adjustment mechanisms for rate-regulated utilities, provided that a schedule showing the automatic adjustment is first filed with the Board.

The proposed rule was published in the Iowa Administrative Bulletin (IAB) at IAB Vol. XXXIII, No. 24 (6/1/11), p. 1636, as **ARC 9529B**. Initial written comments addressing the proposed rule were filed by MidAmerican Energy Company (MidAmerican), the Consumer Advocate Division of the Department of Justice (Consumer Advocate), Interstate Power and Light Company (IPL), and Black Hills/Iowa Gas Utility Company, LLC, d/b/a Black Hills Energy (Black Hills Energy).

On July 8, 2011, the Board conducted an oral presentation for interested persons to offer comments concerning the proposed rule and to allow the Board the opportunity to ask questions about the written comments. MidAmerican, Consumer Advocate, IPL, Black Hills Energy, and the American Association of Retired Persons (AARP) appeared, made comments, and responded to Board questions.

At the conclusion of the oral presentation, the Board stated that a date for additional written comments would be set by Board order. On July 14, 2011, the Board issued an order setting a date for additional comments. Additional comments were filed by MidAmerican, IPL, and Consumer Advocate. On July 29, 2011, Ag Processing Inc. (AGP) filed a statement of position concerning the proposed rule.

A complete discussion of the comments and the Board's analysis and support for the revisions to the proposed rule can be found in the "Order Adopting Rule," which is accessible through the Board's electronic filing system (EFS) at the EFS Web site at <http://efs.iowa.gov>.

Based upon its review of the comments, the Board made certain revisions to the proposed rule. The revisions adopted and those not adopted are described below.

The Board revised the proposed criteria in 19.18(1)"a" by adopting a fourth criterion. This fourth criterion is also included in the Board's electric rules at 199 IAC 20.9(1). The Board did not adopt a suggested change that would have required a utility to meet the requirements of both 19.18(1)"a" and "b" before implementing an automatic adjustment mechanism. The Board stated that recovery under 19.18(1)"b" addressed a problem that the Board considered significant enough to deviate from the traditional criteria adopted in 19.18(1)"a."

The Board did not adopt suggested changes to the criteria in 19.18(1)"b" that would have expanded recovery beyond capital infrastructure investment required by government mandate or state and federal natural gas pipeline safety regulations. The Board stated that the suggested changes would have included costs that should only be reviewed in a general rate proceeding so that all of a utility's costs could be reviewed to balance any savings against any cost increases. The Board was also concerned that expansion beyond the proposed specific costs would turn the tariff filing under 19.18(1)"b" into a rate case proceeding and would defeat one of the primary benefits expected from adopting an automatic adjustment mechanism, reduced rate case expense for ratepayers.

After a review of the proposed rule and the comments, the Board made two revisions to 19.18(1)"b." First, the Board removed the phrase "required for safety" proposed in 19.18(1)"b"(3), which the Board decided was probably redundant and could not be easily defined. Second, the Board removed the phrase "that become effective after January 1, 2011" also proposed in 19.18(1)"b"(3). This latter phrase, the Board determined, could eliminate recovery of costs that would otherwise be recoverable only because of the date of the federal regulation. Such a limitation did not seem necessary based upon the limitation on the types of investments that could be recovered.

To allow the Board to review the results of any automatic adjustment mechanism implemented pursuant to 19.18(1)"b," the Board has revised the proposed rule by adding a sunset provision to this mechanism. The Board stated that since this is the first automatic adjustment mechanism of this type, it is appropriate to place a sunset provision in the rule to allow for Board review after four years. The sunset provision will allow the Board the opportunity to examine the results of the mechanism and to ensure there are no unforeseen consequences that follow implementation and the expected ratepayer benefits were realized.

## UTILITIES DIVISION[199](cont'd)

The Board did not make a revision to 19.18(2) to eliminate a return on the eligible investment and did not make a revision to use the utility's last overall rate of return as the return to be earned for recovery in the automatic adjustment mechanism under 19.18(1)"b." The Board stated that allowing a return on the investment provides an incentive for a utility to make the investments expeditiously and removing this recovery could reduce this incentive. The Board stated that allowing recovery of the overall rate of return would not recognize that recovery pursuant to an automatic adjustment mechanism would reduce regulatory lag by allowing recovery between general rate proceedings and this should be recognized in a somewhat lower return on the investment.

The Board did not adopt a suggested revision that would have limited implementation of an automatic adjustment mechanism to a utility that had filed a general rate case proceeding within three years of implementation of the automatic adjustment mechanism or to a utility that was not subject to a rate freeze. The Board did not consider either of these limitations to be reasonable or consistent with the overall purpose of the rule.

The Board adopted a suggested revision to the proposed rule that added the language "including compliance with an integrity or safety plan adopted by the gas utility to comply with any such mandate or action" in 19.18(3)"b"(1). This language allows utilities to include capital infrastructure investment that is made based upon an integrity management plan required by federal natural gas pipeline safety rules but not actually approved by a federal agency. To make sure the Board has sufficient information to review these types of investments, the Board also added a provision as 19.18(3)"b"(6) that describes the information the utility will be required to file to support recovery of investment made under 19.18(3)"b"(1).

The Board adopted a revision to 19.18(3)"c" suggested in the comments that will give utilities flexibility in determining the volumes and degree-day adjustments to use in calculating the automatic adjustment factor to be included in rates. The Board stated that it did not consider a standard formula necessary since the costs and revenues would be reconciled annually and any discrepancy can be corrected at that time.

Finally, the Board clarified the manner in which the automatic adjustment mechanism process will work by adopting a new paragraph, 19.18(3)"e," which explains that, once an automatic adjustment mechanism is implemented, the utility will file a new tariff each year for recovery, even if the utility has no new eligible capital infrastructure investment to add to the investment already being recovered. Recovery of the return on and return of the investment will continue until temporary rates are effective in a subsequent general rate case filing or, if temporary rates are not implemented, until final rates are effective in the utility's next general rate case. At that time, the automatic adjustment mechanism will reset to zero. Recovery would also end when the unit is completely depreciated, if this occurs before a general rate proceeding is filed. In addition, an annual reconciliation is required to be filed as long as the recovery rate under an automatic adjustment mechanism is above zero.

After analysis and review of this rule making, no impact on jobs has been found.

This rule is intended to implement Iowa Code sections 17A.4, 476.2, and 476.6(8).

This rule will become effective December 7, 2011.

The following amendment is adopted.

Adopt the following new rule 199—19.18(476):

**199—19.18(476) Capital infrastructure investment automatic adjustment mechanism.**

**19.18(1) Eligible capital infrastructure investment.** A rate-regulated natural gas utility may file for board approval a capital infrastructure investment automatic adjustment mechanism to allow recovery of certain costs from customers. To be eligible for recovery through the capital infrastructure investment automatic adjustment mechanism, the costs shall either:

*a.* Meet the following criteria:

- (1) The costs are beyond the direct control of management;
- (2) The costs are subject to sudden, important change in level;
- (3) The costs are an important factor in determining the total cost of capital infrastructure investment to serve customers; and



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(4) The costs are readily, precisely, and continuously segregated in the accounts of the utility; or

b. Be costs for a capital infrastructure investment which:

(1) Does not serve to increase revenues by directly connecting the infrastructure replacement to new customers;

(2) Is in service but was not included in the gas utility's rate base in its most recent general rate case; and

(3) Replaces or modifies existing infrastructure required by state or local government action or is required to meet state or federal natural gas pipeline safety regulations.

c. Recovery of additional costs for eligible infrastructure investment through an automatic adjustment mechanism under paragraph 19.18(1) "b" shall not be allowed after four years from December 7, 2011. The costs of eligible capital infrastructure investment included in rates prior to the end of the four-year period may still be recovered until the utility's next general rate proceeding filing or until the unit of capital has been depreciated to zero. The utility shall file a proposed tariff annually for recovery after the end of the four-year period.

**19.18(2) *Determination of recovery factor.*** The utility may recover a rate of return and depreciation expense associated with eligible capital infrastructure investments described in subrule 19.18(1). The allowed rate of return shall be the average cost of debt from the utility's last general rate review proceeding. Depreciation expense shall be based upon the depreciation rates allowed by the board in the utility's last general rate review proceeding.

**19.18(3) *Recovery procedures.***

a. To recover capital infrastructure investment costs that meet the criteria in paragraph 19.18(1) "a" through an automatic adjustment mechanism, the utility is required to obtain prior board approval of the automatic adjustment mechanism. The utility shall file information in support of the proposed automatic adjustment mechanism that includes:

(1) A description of the capital infrastructure investment and the costs that are proposed to be recovered through the automatic adjustment mechanism;

(2) An explanation of why the costs of the capital infrastructure investment are beyond the control of the utility's management;

(3) An exhibit that shows the changes in level of the costs of the capital infrastructure investment that are proposed to be recovered, both historical and projected;

(4) An explanation of why these particular capital infrastructure investment costs are an important factor in determining the total cost of capital infrastructure investment to serve customers;

(5) A description of proposed recovery procedures, if different from the procedures described in paragraphs 19.18(3) "c" and "d"; and

(6) The length of time that the automatic adjustment mechanism will be in place.

b. Recovery of capital infrastructure investment costs that meet the requirements in paragraph 19.18(1) "b" may be made by the utility by filing a proposed tariff with a 30-day effective date. Only one tariff filing to recover capital infrastructure investment costs shall be made in a 12-month period. The utility shall file information in support of the proposed automatic adjustment rates that includes:

(1) The government entity mandate or action, including compliance with an integrity or safety plan adopted by the gas utility to comply with any such mandate or action, that results in the gas utility project and the purpose of the project, or the safety-related reason requiring the project.

(2) The location, description, and costs associated with the project.

(3) The cost of debt and applicable depreciation rates from the utility's last general rate review proceeding.

(4) The calculations showing the total costs that are eligible for recovery and the rates that are proposed to be implemented.

(5) The utility shall provide supporting documentation, including but not limited to work orders and journal entries, to the board staff or the office of consumer advocate upon request.

(6) If the capital infrastructure investment to be included in the automatic adjustment mechanism is based upon an integrity or safety plan adopted in compliance with state or federal natural gas pipeline safety regulations, describe the relationship of the capital infrastructure investment to the integrity or

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safety plan and the relationship of the integrity or safety plan to a specific state or federal regulation. Provide the date the state or federal regulation was adopted, any relevant compliance dates, and the date the integrity or safety plan was adopted by the utility and how the integrity or safety plan was developed.

c. The utility shall calculate the rates for the recovery of the capital infrastructure investment through the automatic adjustment mechanism over the 12-month period beginning from the effective date of the tariff, unless otherwise ordered by the board. Unless otherwise specified in an approved tariff, the capital infrastructure investment factor shall be calculated by taking the total eligible investment costs for the prior calendar year divided by the actual prior calendar year's sales volumes with the necessary degree-day adjustments. The utility may also use the degree-day adjustment that the utility utilized in the most recent purchased gas adjustment annual filing or any other appropriate degree-day adjustment. The degree-day adjustment shall not be determinative of any weather normalization adjustment in any future rate case.

d. The utility shall file an annual reconciliation within 60 days of the end of the 12-month period each year after the initial year in which the automatic adjustment mechanism is implemented that reconciles the actual revenue recovered through the automatic adjustment mechanism with the costs of the eligible capital infrastructure investments proposed to be recovered. The reconciliation shall be for the 12-month period beginning with the effective date of the tariff. Any over-recoveries or under-recoveries from the reconciliation shall be recovered over the ten-month period from the effective date of any adjustment required by the reconciliation.

e. Recovery of a return on and return of capital infrastructure investment that is eligible for recovery pursuant to an automatic adjustment mechanism approved under this rule shall continue until the effective date of temporary rates in a subsequent general rate proceeding or, if temporary rates are not implemented, until final rates approved by the board in the utility's next general rate proceeding. To continue recovery, a utility shall file a proposed tariff each year. Once final rates approved by the board in the next general rate proceeding are effective, the automatic adjustment mechanism shall reset to zero.

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[Published 11/2/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/11.

**ARC 9819B**

**UTILITIES DIVISION[199]**

**Adopted and Filed**

Pursuant to Iowa Code sections 17A.4, 476.1A, and 476.2, the Utilities Board (Board) gives notice that on October 12, 2011, the Board issued an order in Docket No. RMU-2011-0004, In re: Amendment to Outage Notification Requirements for Electric Utilities [199 IAC 20.19], "Order Adopting Amendment." In the order, the Board adopted an amendment to the current outage notification rules for electric utilities that changes the notification requirement from two hours to six hours when an outage meets the other requirements in the rule. The Board also adopted a change to the operative language from "when it becomes apparent" to "when it is projected" to ensure that utility personnel understand that the Board should be notified as soon as utility personnel have sufficient information to project that an outage will last longer than six hours. The proposed amendment was published in the Iowa Administrative Bulletin at IAB Vol. XXXIV, No. 1 (7/13/11), p. 26, as **ARC 9614B**.

On June 22, 2011, the Board issued an order commencing a rule making in which the Board proposed to amend the outage notification as described above. In the June 22, 2011, order, the Board stated that the change from two hours to six hours should limit the outages that are required to be reported to those outages that are significant enough to warrant being forwarded to the Iowa Homeland Security and Emergency Management Division (HSEMD) Duty Officer. The Board stated that the change in the operative language should provide electric utilities with a clearer understanding that outages should be

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reported as soon as utility personnel have sufficient information to project that the outage is likely to last longer than six hours.

Comments concerning the proposed amendment were received from MidAmerican Energy Company (MidAmerican), the Iowa Association of Electric Cooperatives (IAEC), and the Iowa Association of Municipal Utilities (IAMU).

MidAmerican stated that it supports the change in the outage notification requirements.

IAEC stated that it supports the change from two to six hours. IAEC stated that it supports the change in the operative language and thinks the change makes it clear that utility personnel are to notify the Board as soon as a determination is made that the outage meets the requirements in the rule. IAEC pointed out that it is not always apparent at the outset of an outage how long the outage will last.

IAMU stated it supports the amendment.

No oral presentation was scheduled or requested for this rule making.

After a review of the comments, the Board determined that the amendment to the electric outage notification requirements should be adopted as proposed. As indicated in the order commencing the rule making, the current outage notification requirements have required utilities to notify the Board of outages that are not significant enough to report to HSEMD. When the Board adopted the current rule, the Board adopted a more conservative requirement than was set out in the Board's internal procedures for reporting outages to HSEMD to ensure that the Board received notice of significant outages. The Board's internal operating procedures require that the Board's Duty Officer notify HSEMD only of outages that are projected to last at least seven to eight hours, unless there are other circumstances that warrant notice to HSEMD. Under the current two-hour notification requirement, the Board has been receiving many more notifications than it has been forwarding to HSEMD, and this has created confusion and a waste of Board and company resources. Experience with the two-hour standard has shown it is overly inclusive and should be changed.

Adoption of a six-hour outage notification requirement will greatly reduce the number of notifications that the Board receives that are not forwarded to HSEMD and will make the rule more consistent with the Board's internal procedures. The change will allow companies to provide fewer notices to the Board and will allow those responding to outages that will last less than six hours to complete the restoration of service without stopping to provide notice to the Board.

The Board understands that there are concerns about the effect that outages of less than six hours may have on individual customers of a utility. The Board's outage notification rule was not designed to address many of these individual situations since the rule requires the Board to be notified only for outages that affect: (1) substantially all of a municipality, (2) 20 percent or more of a large utility's zone of service, (3) 25 percent of a small utility's customers, or (4) loss of service to significant public health and safety facilities. These requirements focus on those outages where HSEMD may be required to take some action and coordinate with local and other state emergency responders. The Board will therefore continue to receive notice of all significant outages.

The Board's order adopting this amendment to the outage notification rules is accessible through the Board's electronic filing system (EFS) at the EFS Web site at <http://efs.iowa.gov>.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code sections 476.1A, 476.2 and 17A.4.

This amendment will become effective December 7, 2011.

The following amendment is adopted.

Amend subrule 20.19(1) as follows:

**20.19(1) Notification.** The notification requirements in subrules 20.19(1) and 20.19(2) are for the timely collection of electric outage information that may be useful to emergency management agencies in providing for the welfare of individual Iowa citizens. Each electric utility shall notify the board when it ~~becomes apparent~~ is projected that an outage may result in a loss of service for more than ~~two~~ six hours and the outage meets one of the following criteria:

*a.* For all utilities, loss of service for more than ~~two~~ six hours to substantially all of a municipality, including the surrounding area served by the same utility. A utility may use loss of service to 75 percent

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or more of customers within a municipality, including the surrounding area served by the utility, to meet this criterion;

*b.* For utilities with 50,000 or more customers, loss of service for more than ~~two~~ six hours to 20 percent of the customers in a utility's established zone or loss of service to more than 5,000 customers in a metropolitan area, whichever is less;

*c.* For utilities with more than 4,000 customers and fewer than 50,000 customers, loss of service for more than ~~two~~ six hours to 25 percent or more of the utility's customers;

*d.* No change.

*e.* Any other outage considered significant by the electric utility. This includes loss of service for more than ~~two~~ six hours to significant public health and safety facilities known to the utility at the time of the notification, even when the outage does not meet the criteria in paragraphs 20.19(1) "a" through "d."

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